Vindiciæ contra Tyrannos:

A

Defence of Liberty againſt Tyrants,

OR,

Of the lawful power of the Prince over *the People, and of the People over the Prince.*

BEING

A Treatiſe written in *Latin* and *French* by *Junius Brutus*, and Tranſlated out of both into ENGLISH.

Queſtions diſcuſſed in this Treatiſe.

I. Whether Subjects are bound and ought to obey Princes, if they command that which is againſt the Laws of God.

II. Whether it be lawful to reſiſt a Prince which doth infring the Law of God, or ruine the Church, by whom, how, and how far it is lawful.

III. Whether it be lawful to reſiſt a Prince which doth oppreſs or ruine a publick State, and how far ſuch reſiſtance may be extended, by whom, how, and by what Right, or Law it is permitted.

IV. Whether neighbour Princes or States may be, or are bound by Law, to give ſuccours to the Subjects of other Princes, afflicted for the Cauſe of true Religion, or oppreſſed by manifeſt Tyranny.

Licenſed and Entered according to Order.

LONDON,
Printed for *Richard Baldwin*, in the Year, 1689.

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A Treatise written in *Latin* and *French* by *Junius Brutus*, and Translated out of both into ENGLISH.

Questions discussed in this Treatise.

I. Whether Subjects are bound and ought to obey Princes, if they commanded that which is against the Law of God.

II. Whether it be lawful to resist a Prince which doth infring the Law of God, or ruine the Church, by whom, how, and how far it is lawful.

III. Whether it be lawful to resist a Prince which doth oppress or ruine a publick State, and how far such resistance may be extended, by whom, how, and by what Right, or Law it is permitted.

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THE Emperors THEODOSIAS and VALENTINIAN TO VOLUSIANUS, Great Provost of the Empire.

IT is a Thing well becoming the Majesty of an Emperour, to acknowledge Himself bound to obey the Laws. Our Authority depending on the Authority of the Laws, and in very Deed to submit the Principallity to Law, is a greater thing then to bear Rule. We therefore make it known unto all Men, by the Declaration of this our Edict, that We do not allow Our selves, or repute it Lawful, to do any thing contrary to this.

Justin in the second Book, speaks thus of Lycurgus, Law-giver to the Lacedemonians, *He gave* Laws *to the* Spartans *which had not any*; *and was as much renowned for his diligent* Observing *of them Himself, as for his discreet* Inventing *of them*: *For he made no* Laws *for Others, to the Obedience whereof he did not first submit Himself. Fashioning the People to obey willingly, and the Prince to Govern uprightly.*

The

The first Question.

Whether Subjects are bound and ought to obey Princes, if they command that which is against the Law of God.

THIS question happily may seem at the first view to be altogether superfluous and unprofitable, for that it seems to make a doubt of an axiome always held infallible amongst Christians, confirmed by many testimonies in Holy Scripture, divers examples of the Histories of all Ages, and by the death of all the Holy Martyrs, for it may be well demanded wherefore Christians have endured so many afflictions, but that they were always persuaded, that God must be obeyed simply, and absolutely, and Kings with this exception that they command not that which is repugnant to the Law of God. Otherways wherefore should the Apostles have answered, that God must rather be obeyed than men, and also seeing that the only will of God is always just, and that of men may be, and is, oftentimes unjust, who can doubt but that we must always obey God's commandments without any exception, and men ever with limitation. But for so much as there are many Princes in these days, calling themselves Christians, which arrogantly assume an unlimited power, over which God himself hath no command, and that they have no want of flatterers, which adore them as Gods upon earth, many others also, which for fear, or by constraint, either seem, or else do believe, that Princes ought to be obeyed in all things, and by all men. And withal, seeing the unhappiness of these times is such, that there is nothing so firm, certain, or pure, which is not shaken, disgraced, or polluted; I fear me that whosoever shall nearly, and throughly consider these things, will confess this question to be not only most profitable, but also, the times considered, most necessary. For my own [illegible] I consider the cause of the many calamities, [illegible] Christendom hath been afflicted, for

Act. 4. 19.

Hos. 5. 10, 11. these late years, I cannot but remember that of the Prophet *Hosea*, *the Princes of Judah are like them that remove the bounds: wherefore I will powre out my self like water. Ephraim is oppressed, and broken in judgment, because he willingly walked after the Commandement.* Here you see the sin of the Princes, and people dispersed in these two words. The Princes exceed their bounds, not contenting themselves with that Authority which the Almighty, and all good God hath given them, but seek to usurp that sovereignty, which he hath reserved to himself over all men, being not content to command the Bodies, and goods of their Subjects at their pleasure, but assume licence to themselves to inforce the Consciences, which appertains chiefly to Jesus Christ, holding the earth not great enough for their ambition, they will climb and conquer Heaven it self. The people on the other side walks after the commandment, when they yeild to the desire of Princes, who command them that which is against the Law of God, and as it were burn incense to, and adore these earthly Gods, and instead of resisting them, if they have means and occasion, suffer them to usurp the place of God, making no conscience to give that to *Cæsar*, which belongs properly and only to God. Now is there any man that sees not this, if a man disobey a Prince commanding that which is wicked and unlawful, he shall presently be esteemed a Rebel, a Traytor, and guilty of High Treason, our Saviour Christ, the Apostles and all the Christians of the Primitive Church were charged with these Calumnies. If any after the example of *Ezra*, and *Nehemiah*, dispose himself to the building of the Temple of the Lord, it will be said he aspires to the Crown, hatches innovations, and seeks the ruine of the State, then you shall presently see a million of these Ministers, and flatterers of Princes tickling their ears with an opinion, that if they once suffer this Temple to be re-builded, they may bid their Kingdom farewell, and never look to raise impost or taxes on their people. But what a madness is this? There are no Estates which ought to be esteemed firm and stable, but those

Ezra. 4. Nehe. 5. 7.

in

in whom the Temple of God is built, and which are indeed the Temple it self, and these we may truly call Kings, which reign with God, seeing that it is by him only that Kings reign. On the contrary what beastly foolishness it is to think, that the State and Kingdom cannot subsist if God Almighty be not excluded, and his Temple demolished. From hence proceeds so many Tyrannous enterprises, unhappy and tragick death of Kings, and ruines of people. If these Sicophants knew what difference there is between *God* and *Cæsar*, between the King of Kings, and a simple King, between the Lord, and the Vassal, and what tributs this Lord requires of his Subjects, and what Authority he gives to Kings over those his Subjects, certainly so many Princes would not strive to trouble the Kingdom of God, and we should not see some of them precipitated from their Thrones by the just instigation of the Almighty, revenging himself of them, in the midst of their greatest strength, and the people should not be so sack'd and pillag'd, and troden down.

It then belongs to Princes to know how far they may extend their Authority, and to Subjects in what they may obey them, lest the one interoaching on that jurisdiction, which no way belongs to them, and the others obeying him which commandeth further then he ought, they be both chastised, when they shall give an account thereof before another Judge: Now the end and scope of the question propounded, whereof the Holy Scripture shall principally give the resolution, is that which followeth. The question is, if Subjects be bound to obey Kings, in case they command that which is against the Law of God: that is to say, to which of the two (God or the King) must we rather obey, when the question shall be resolved concerning the King, to whom is attributed absolute power, that concerning other Magistrates shall be also determined.

First, the Holy Scripture doth teach, that God reigns by his own proper Authority, and Kings by derivation, God from himself, Kings from God, that God hath a jurisdiction proper, Kings are his delegates: It follows then,

Prov. 8. Job 12. Wisd. 6. 3.

then, that the jurisdiction of God hath no limits, that of Kings bounded, that the power of God is infinite, that of Kings confin'd, that the Kingdom of God extends itself to all places, that of Kings is restrain'd within the confines of certain Countries: In like manner God hath created of nothing both Heaven and Earth; wherefore by good right he is Lord, and true Proprietor, both of the one, and the other: All the Inhabitants of the Earth hold of him that which they have, and are but his tenants, and farmers; all the Princes and Governors of the World are his stipendaries and vassals, and are bound to take and acknowledge their investitures from him. Briefly, God alone is the owner and Lord, and all men of what degree, or quality soever they be, are his servants, farmers, officers and vassals, and owe account and acknowledgment to him, according to that which he hath committed to their dispensation, the higher their place is, the greater their account must be, and according to the ranks whereunto God hath raised them, must they make their reckoning before his divine Majesty, which the Holy Scripture teacheth in infinite places, and all the faithful, yea, and the wisest among the Heathen have ever acknowledged: The earth is the
Psal. 14. Lords, and the fulness thereof, (so saith King *David*) And to the end that men should not sacrifice to their own industry; the Earth yeilds no increase without the dew of Heaven. Wherefore God commanded that his people should offer unto him the first of their fruits, and the Heathens themselves hath consecrated the same unto their Gods; to the end, that God might be acknow-
Isay. 66. 1. ledged Lord, and they his strangers and vile dressers;
1 Kings 1. 8. the Heaven is the Throne of the Lord, and the Earth his Foot-stool. And therefore seeing all the Kings of the World are under his Feet, it is no marvail, if God be called the King of Kings, and Lord of Lords; all Kings be termed his
Prov. 8. 15. Ministers established to judge rightly, and govern justly
Job 12. 18. the World in the quality of Livetenants. By me (so saith the divine Wisdom) Kings reign, and the Princes
Dan. 2. 21. judge the earth: If they do it not he looseth the Bonds of Kings, and grideth their Loyns with a girdle. As if he

he should say, it is in my power to establish Kings in their Thrones, or to thrust them out, and from that occasion the Throne of Kings is called the Throne of God. Blessed be the Lord thy God (saith the Queen of *Sheba* to King *Solomon*) which delighted in thee to set thee on his Throne to be King for the Lord thy God, to do judgment and justice. In like manner we read in another place, that *Solomon* sate on the Throne of the Lord, or on the Throne of the Lords Kingdom. By the same reason the People is always called the Lords People, and the Lords inheritance, and the Kings Governor of this inheritance, and Conductor or Leader of his People of God, which is the title given to *David*, to *Solomon*, to *Ezechias* and to other good Princes; when also the Covenant is passed betwixt God and the King, it is upon condition that the People be, and remain always the people of God, to shew that God will not in any case despoil himself of his propriety and possession, when he gives to Kings the government of the People, but establish them to take charge of, and well use them, no more nor less than he which makes choice of a Shepheard to look to his flocks, remains notwithstanding himself still Master and owner of them. This was always known to those good Kings, *David*, *Solomon*, *Jehosaphat*, and others which acknowledged God to be the Lord of their Kingdoms and Nations, and yet lost no priviledge that justly belongs to real power; yea, they reigned much more happily in that they employed themselves cheerfully in the service of God, and in obedience to his Commandments. *Nabuchadnezar*, although he were a Heathen, and a mighty Emperor, did yet at the end acknowledge this, for though *Daniel* called him the King of Kings, to whom the King of Heaven had granted power, and Royal Majesty above all others: Yet on the contrary, (said he) *Thy God & Daniel is truly the God of Gods, and Lord of Lords giving Kingdoms to whom he pleaseth*, yea, to the most wretched of the World. For which cause *Zenophon* said at the Coronation of *Cyrus*, let us sacrifice to God. And prophane Writers in many places do magnifie

2 Chron. 9. 8.

2 Chron. 29. 13.

1 Sam. 9. 16. and 10. 1.

2 Sam. 6. 21.

2 Kings 20. 5.

2 Chron. 1. 9.

2 King. 11.

2 Chron. 33. 16.

2 Chron. 20. 6.

Dan. 2. 37. and 4. 14.

magnifie God the most mighty and Sovereign King. At this day at the Inaugurating of Kings, and Christian Princes, they are called the servants of God, destinated to govern his people. Seeing then that Kings are only the Leiutenants of God, established in the Throne of God, by the Lord God himself, and the people are the people of God, and that the honour which is done to these Leiutenants proceeds from the reverence which is born to those, that sent them to this service: it follows of necessity that Kings must be obeyed for Gods cause, and not against God, and then, when they serve and obey God, and not other ways: It may be that the flatterers of the Court will reply, that God hath resigned his power unto Kings, reserving Heaven for himself, and allowing the Earth to them to Reign, and govern there according to their own fancies, briefly that the great ones of the World hold a devided Empire with God himself. Behold a discourse proper enough for that impudent Villain *Aron* the Sicophant of *Alexander*, or for the Poet *Marcial* which was not ashamed to call the Edicts of *Domitian*, the Ordinances of the Lord God. This discourse I say is worthy of that execrable *Domitian* who (as *Suetonius* recites) would be called God and Lord. But altogether unworthy of the ears of a Christian Prince, and of the mouth of good Subjects, that sentence of God Almighty must always remain irrevocably true, *I will not give my glory to any other*, that is, no Man shall have such absolute Authority, but I will always remain Sovereign. God doth not at any time divest himself of his power, he holds a Scepter in one hand to repress and quell the audacious boldness of those Princes which mutiny against him, and in the other a ballance to controul those that administer not justice with equity as they ought, then these there cannot be expressed more certain marks of sovereign Command. And if the Emperor in creating a King, reserves always to himself the imperial sovereignty, or a King as he of *France* in granting the Government or possession of a Province to a stranger, or

Divisum imperium cum Jove Cæsar habet.

Isa. 48. 11.

Psal. 2. 9.
Wisd. 6. 4.

if

if it be to his Brother or Son reserves always to himself appeals, and the knowledg of such things as are the marks of royalty and sovereignty, the which also are always understood of themselves to be excepted, although they were altogether omitted in the grant of investiture, and fealty promised, with much more reason should God have Sovereign Power and Command over all Kings being his Servants and Officers, seeing we read, in so many places of Scripture, that he will call them to an account, and punish them, if they do not faithfully discharge their duties. Then therefore all Kings are the Vassals of the King of Kings, invested into their Office by the sword, which is the cognisance of their Royal Authority, to the end, that with the sword they maintain the Law of God, defend the good, and punish the evil: Even as we commonly see, that he which is a Sovereign Lord, puts his Vassals into possession of their fee, by girding them with a sword, delivering them a buckler, and a standard, with condition that they shall fight for them with those Arms if occasion shall serve. Now if we consider what is the duty of Vassals, we shall find that what may be said of them, agrees properly to Kings. The Vassal receives his fee of his Lord with right of justice, and charge to serve him in his Wars. The King is established by the Lord God, the King of Kings, to the end he should administer justice to his people and defend them against all their Enemies. The Vassal receives Laws and Conditions from his Sovereign. God Commands the King to observe his Laws and to have them always before his Eyes, promising that he and his Successors shall possess long the Kingdom, if they be obedient, and on the contrary, that their Reign shall be of small continuance, if they prove Rebellious to their Sovereign King. The Vassal obligeth himself by Oath unto his Lord, and sweats that he will be faithful, and obedient. In like manner the King promiseth solemnly to command, according to the express Law of God. Briefly the Vassal looseth his fee, if he Commit

1 Sam. 8. and 9 20.

Deu. 17. 19.

mit Felony, and by Law forfeiteth all his Priviledges: In the like case the King looseth his Right, and many times his Realm also, & he despise God, if he Complot with his Enemies, and if he Commit Felony against that Royal Majesty, this will appear more clearly by the consideration of the Covenant which is Contracted between God and the King, for God does that honour to his Servants to call them his Confoderates. Now we read of two sorts of Covenants at the Inaugurating of Kings, the first between God, the King, and the People, that the people might be the people of God: The second between the King and the people, that the people shall obey faithfully, and the King command justly, we will treat hereafter of the second, and now speak of the first.

The Alliance between God and the Kings. 2 King. 11. 2 Chro. 23. 16. 2 King 23.

When King *Joas* was Crowned we read that a Covenant was Contracted between God, the King, and the People: or, as it is said in another place between *Jehojada* the High-Priest, all the People, and the King: *That God should be their Lord.* In like manner we read that *Josias* and all the people entred into Covenants with the Lord: we may gather from these testimonies, that in passing these Covenants the High-Priest did Covenant in the Name of God in express terms, that the King and the People should take order that God might be served purely, and according to his will, throughout the whole Kingdom of *Juda*, that the King should so Reign that the People were suffered to serve God, and held in obedience to his Law: That the people should so obey the King, as their obedience should have principal Relation to God. It appears by this that the King and the People are joyntly bound by promise and did oblige themselves by solemn Oath to serve God before all things. And indeed presently after they had sworn the Covenant, *Josias* and *Joas* did ruine the Idolatry of *Baal* and re-established the pure service of God. The principal points of the Covenants were chiefly these.

That

That the King himſelf, and all the people ſhould be careful to honour and ſerve God according to his will revealed in his word, which if they performed, God would aſſiſt and preſerve their Eſtates: as in doing the contrary, he would abandon, and exterminate them, which doth plainly appear by the conferring of divers paſſages of holy writ. *Moſes* ſomewhat before his death propounds theſe conditions of Covenant to all the people, and at the ſame time commands that the Law, which he thoſe precepts given by the Lord ſhould be in *depoſito* kept in the Ark of the Covenant. Deut. 29. 30, 31. Deut. 31. 26.

After the deceaſe of *Moſes*, *Joſhua* was eſtabliſhed Captain, and Conductor of the people of God, and according as the Lord himſelf admoniſhed, if he would have happy ſucceſs in his Affairs, he ſhould not in any ſort eſtrange himſelf from the Law; *Joſhua* alſo for his part, deſiring to make the *Iſraelites* underſtand upon what condition God had given them the Country of *Canaan*, as ſoon as they were entred into it, after due ſacrifices performed, he read the Law in the preſence of all the people, promiſing unto them in the Lords name all good things if they perſiſted in obedience; and threatning of all evil if they wilfully connived in diſobedience. Summarily, he aſſures them all proſperity, if they obſerved the Law; as otherways, he expreſly declared, that in doing the contrary they ſhould be utterly ruined: Alſo at all ſuch times as they left the ſervice of God, they were delivered into the hands of the *Canaanites*, and reduced into ſlavery, under their Tyranny. Now this Covenant between God and the people in the times of the Judges, had vigor alſo in the times of the Kings, and was treated with them. After that *Saul* had been anoynted, choſen, and wholly eſtabliſhed King, *Samuel* ſpeaks unto the people in theſe terms; *Behold the King whom you have demanded and choſen, God hath eſtabliſhed him King over you, obey you therefore and ſerve the Lord, as well you, as your King which is eſtabliſhed over you, otherwiſe you and your King ſhall periſh.* As if he ſhould ſay, you would have a King and God hath given you this here, notwithſtanding Joſh. 1. Deut. 27. 25. Joſ. 5. & 24. 2 Sam. 12.

think not that God will suffer any entroachment upon his right, but know that the King is as well bound to obsetve the Law as you, and if he fail therein, his delinquency shall be punished as severely as yours: Briefly, according to your desires *Saul* is given you for your King, to lead you in the Wars, but with this condition annexed that he himself follow the Law of God.

2 King. 2. 4. & 6. 12. After that *Saul* was rejected, because he kept not his promise, *David* was established King on the same condition, so also was his Son *Solomon*, for the Lord said, *If thou keep my Law, I will confirm with thee the Covenant which I contracted with David.* Now concerning this Covenant, it is inserted into the second Book of the Chronicles, as followeth. *There shall not fail thee a man in my sight, to sit upon the Throne of Israel: yet so that thy children take heed to their way to walk in my Law, as thou hast walked before me. But if they serve Idols, I will drive them from the Land whereof I have given them possession.* And therefore it was that the book of the Law was called the book of the Covenant of the Lord, (who commanded the Priests to give it the King) according to which *Samuel* put it into the hands of *Saul*, and according to the tenure thereof *Josias* yields himself *fiduciarie* and vassal of the Lord. Also the Law which is kept in the Ark, is called the Covenant of the Lord with the Children of *Israel*. Finally, the people delivered from the Captivity of *Babylon*, do renew the Covenant with God, and do acknowledge throughout that Chapter, that they worthily deserved all those punishments for their falsifying their promise to God. It appears then that the Kings swear as vassals to observe the Law of God, whom they confess to be Soveraign Lord over all. Now according to that which we have already touched, if they violate their Oath, and transgress the Law, we say that they have lost their Kingdom, as vassals loose their fee by Committing Felony. We have said that there was the same covenant between God and the Kings of *Judah*, as before, between God and the People in the times of *Joshua* and the Judges. But we see in many places, that when the people

2 Chron. 6. 16 & 7. 17. 2 King. 21. 2. Deut. 17. 18. 1 Sam. 10. 25.

2 Chron. 6. 11. Nehem. 9. 38.

Jud. 2. 24. & 4. 2. &c. & 9. 33. 1 Sam. 13. 13. & 15. 26.

people hath despised the Law, or made covenants with *Baal*, God hath delivered them into the hands of *Eglon*, *Jabin*, and other Kings of the *Canaanites*: And as it is one and the same Covenant, so those which do break it, receive like punishment *Saul* is so audacious to sacrifice, infringing thereby the Law of God, and presently after saves the life of *Agag*, King of the *Amalekites*, against the express Commandment of God, for this occasion he is called Rebel by *Samuel*, and finally is chastized for his Rebellion. *Thou hast sacrificed*, saith he, *but thou hadst done better to obey God, for, obedience is more worthy than sacrifice*. Thou hast neglected the Lord thy God, he also hath rejected thee, that thou Reign no more over *Israel*. This hath been so certainly observed by the Lord, that the very Children of *Saul* were deprived of their paternal inheritance, for that he having committed High Treason, did thereby incur the punishment of Tirants, which affect a Kingdom that no way appertains unto them. And not only the Kings, but also their Children and successors have been deprived of the Kingdom by reason of such Fellony. *Solomon* revolted from God to Worship Idols. Incontinently the Prophet *Ahijah* forteels that the Kingdom shall be divided under his Son *Rehoboam*. Finally, the word of the Lord is accomplished, and ten Tribes which made the greatest portion of the Kingdom, do quit *Rehoboam*, and adhere to *Jeroboam* his Servant. Wherefore is this? for so much (saith the Lord) that they have left me to go after *Astoroche*, the God of the *Sidonians* and *Chamos* the God of the *Moabites*, &c. I will also break in pieces their Kingdom: as if he should say, they have violated the Covenant, and have not kept promise, I am no more then tied unto them, they will lessen my Majesty, and I will lessen their Kingdom: Although they be my Servants, yet notwithstanding they will expel me my Kingdom; but I will drive them out themselves by *Jeroboam* which is their Servant. Furthermore, for so much as this Servant, fearing that the ten Tribes for the cause of Religion should return to *Jeru-*

Salem, set up Calves in *Bethel*, and made *Israel* to sin, withdrawing by this means the people far from God, what was the punishment of so ingrateful a Vassal and wicked Traytor towards his Lord? First, his Son died, and in the end all his race, even unto the last of the males was taken from the Face of the Earth by the Sword of *Baasa*, according to the Judgment which was pronounced against him by the Prophet, because he revolted from the obedience of the Lord God: this then is cause sufficient, and often times also propounded, for the which God doth take from the King his Fee, when he opposeth the Law of God, and withdraws himself from him to follow his Enemies, to wit Idols, and as like crimes deserve like punishments, we read in the Holy Histories that Kings of *Israel* and of *Juda* which have so far forgotten themselves, have in the end miserably perished. Now although the form both of the Church, and the *Jewish* Kingdom be changed, for that which was before inclosed within the narrow bounds of *Judea*, is now dilated throughout the whole World, notwithstanding the same things may be said of Christian Kings, the Gospel having succeeded the Law, and Christian Princes being in the place of those of *Jury*. There is the same Covenant, the same Conditions, the same Punishments, and if they fail in the accomplishing, the same God Almighty revenger of all perfidious disloyalty; and as the former were bound to keep the Law, so the other are obliged to adhere to the Doctrin of the Gospel, for the advancement whereof these Kings at their anoynting, and receiving, do promise to imploy the utmost of their means.

Herod fearing Christ, whose reign he should rather have desired, sought to put him to death, as if he had affected a Kingdom in this World, did himself miserably perish, and lost his Kingdom. *Julian* the Apostate did cast off Christ Jesus to cleave unto the Impiety and Idolatry of the *Pagans*: but within a small time after he fell to his confusion, the force of the Arm of Christ, whom in mockery he called the

Gallilean.

Galilean. Ancient Histories are repleat with such examples, neither is there any want in those of these times. Of late years divers Kings drunk with the liquor which the Whore of *Babylon* hath presented unto them, have taken Arms, and for the love of the Wolf, and of Antichrist, have made War against the Lamb of God, which is Christ Jesus, and yet at this day some amongst them do continue in the same course, we have seen some of them ruin'd in the deed, and in the midst of their wickedness, others also carried from their Triumphs to their graves, those which survive and follow them in their courses have little reason to expect a better issue of their wicked practices, this sentence remains always most certain, *That though all the Kings of the Earth do conjure and conspire against Christ, and endeavour to cut in pieces our Lamb, yet in the end they shall yeild the place, and maugre their hearts, confess that this Lamb is the King of Kings, and Lord of Lords.* But what shall we say of the Heathen Kings? certainly although they be not anointed and sacred of God, yet be they his Vassals and have received their power from him, whether they be chosen by lot or any other means whatsoever. If they have been chosen by the voices of an Assembly, we say that God governs the heart of man, and addresses the minds and intentions of all persons whether he pleaseth: If it be by lot, the lot is cast in the lap, saith the wise man, *but the whole disposing thereof is of the Lord.* It is God only that in all ages establisheth, and takes away, confirms, and overthrows Kings according to his good pleasure; in which regard *Isay* calls *Cyrus* the anointed of the Lord, and *Daniel* saith that *Nebuchadnezzar* and others have had their Kingdoms committed unto them by God; as also Saint *Paul* maintains that all Magistrates have received their Authority from him: For although that God hath not commanded *Pagans* in express terms to obey him as he hath done those that have knowledge of him: yet notwithstanding the *Pagan* must needs confess that it is by the soveraign God that they reign, wherefore if they will not yeild the

Psal. 2. 2.
Psal. 110. 2.
Apoc. 19. 16.
pro. 16. 33.
Esa. 45. 1.
Dan. 2. 21. and 4. 24.
Rom. 13. 1.

the tribute that they owe to God in regard of themselves, at the least let them not attempt nor hinder the Sovereign to gather that which is due from those people which are in subjection to them; nor that they do not anticipate, nor appropriate to themselves divine Jurisdiction over them, which is the crime of High Treason and true Tyranny, for which occasion the Lord hath grievously punished even the *Pagan* Kings themselves. It then becomes those Princes that will free themselves from so enormous a mischief, carefully to distinguish their jurisdiction from that of Gods, yea, so much the more circumspectly for that God and the Prince have their right of Authority over one and the same Land, over one and the same man, over one and the same thing; man is composed of Body and Soul. God hath formed the Body and infused the Soul into him, to him only then may be attributed, and appropriated the commands both over the Body and Soul of man. If out of his meer grace and favour he hath permitted Kings to employ both the Bodies and goods of their Subjects, yet still with this proviso and charge, that they perserve and defend their Subjects; certainly Kings ought to think that the use of this Authority is in such manner permitted, that notwithstanding the abuse of it is absolutely forbidden: First, those which confess that they hold their Souls and lives of God, as they ought to acknowledge, they have then no right to impose any tribute upon Souls. The King takes tribute and custom of the Body, and of such things as are acquired or gained by the industry and Travel of the Body. God doth principally exact his right from the Soul, which also in part executes her functions by the Body. In the tribute of the King are comprehended the Fruits of the Earth, the contributions of money and other charges, both real and personal; the tribute of God is in Prayers, Sacraments, Predications of the pure word of God; briefly all that which is called divine service, as well private as publick; these two tributes are in such manner divers and distinguished, that the one hurts nothing the other,

the

the Exchequer of God takes nothing from that of Cæsar, but each of them have their right intirely apart. But to speak in a word, whosoever confounds these things, doth Heaven and Earth together, and endeavours to reduce them into their first chaos, or later confusion. *David* hath excellently well distinguished these affairs, ordaining Officers to look to the right of God, and others for that of the King. *Josephat* hath followed the same course, establishing certain persons to judg the causes that belonged to the Almighty, and others to look to the justice of the King; the one to maintain the pure service of God, the other to preserve the rights of the King. But if a Prince usurpe the right of God, and put himself forward after the manner of the Giants to scale the Heavens, he is no less guilty of High Treason to his Sovereign, and commits Felony in the same manner, as if one of his vassals should seize on the rights of his Crown, and put himself into evident danger to be dispoiled of his Estates, and that so much the more justly, there being no proportion between God and an earthly King, between the Almighty and a mortal man; whereas yet between the Lord and the Vassel there is some relation of proportion. So often therefore as any Prince shall so much forget himself, as insolently to say in his heart I will ascend into Heaven, I will exalt my Throne above the Stars of God; I will sit also upon the mount of the congregation in the sides of the North; I will ascend above the heights of the Clouds, I will be like the most high. But on the contrary, will the Almighty say I will rise up more high, I will set my self against thee, I will raze out thy name and all thy posterity, thy counsels shall vanish into smoak, but that which I have once determined shall remain firm, and never be annihilated. The Lord said unto *Pharaoh*, *let my people go, that they may serve me, and offer Sacrifice unto me*, and for that this proud man answered, that he knew not the God of the *Hebrews*, presently after he was miserably destroyed. *Nebuchadnezzar* commanded that his statue should be adored, and would be honoured as God,

1 Chron. 26. 29.
2 Chron. 19. 11.
Esay. 14. 13. 14.
Exo. 5. and 8. &c.
Dan. 3. 5. and 4. 25. &c.

but

but within a short time the true God did deservedly chastise his unruly boldness, and desiring to be accounted God, he became a brute beast, wandring through desart places like a wild Ass, until (saith the Prophet) that he acknowledged the God of *Israel* to be the Soveraign Lord over all; his Son *Belshazer* abused the holy vessels of the Temple in *Jerusalem*, and put them to serve his excess and drunkenness; for that therefore he gave not glory to him, that held in his hands both his Soul and his counsels, he lost his Kingdom, and was slain in that very night of his feasting. *Alexander* the Great, took pleasure in the lies of his Flatterers, who termed him the Son of *Jupiter*, and not only approv'd, but procur'd his adoration, but a sudden death gave a sad Period to those triumphs, being blinded through his excess of conquests began with too much affection, to delight in *Antiochus*, under colour of pacifying and uniting his subjects, commanded all men to forsake the Laws of God, and to apply themselves in obedience to his; he prophaned the Temple of the *Jews*, and pollured their Altars, but after divers ruins, defeats and loss of battles, dispoyled and disgraced, he dyes with grief, confessing that he deservedly suffered those miseries, because he would have constrained the *Jews* to leave their Religion. If we take into our consideration the death of *Nero*, that inhuman Butcherer of Christians, whom he unjustly slandered with the firing of *Rome*, being the abhorred Act of his detested self. The end of *Caligula*, which made himself to be adored; of *Domitian*, which would be called Lord and God, of *Commodus*, and divers others which would appropriate to themselves the honours, due to God alone, we shall find that they have all and always according to their deeds miserably perished; when on the contrary, *Trajan*, *Adrian*, *Antonius* the courteous and others, have finished their days in peace, for although they knew not the true God, yet have they permitted the Christians the exercise of their Religion. Briefly even as those rebellious Vassals which endeavour to possess themselves of the Kingdom, do commit Felony by the Testimony of all

1 Macha. 1. 45.

Mac. 6. 12, 13.

Dan. 5. 2.

and

all Laws, and deserve to be extirpated; In like manner those are as really guilty which will not observe the Divine Law, whereunto all men without exception owe their obedience, or which persecute those that desire to conform themselves thereunto, without, bearing them in their *just defences*; now for that we see that God invests Kings into their Kingdoms, almost in the same manner that vassals are invested into their fees by their Soveraign, we must needs conclude, that Kings are the vassals of God, and deserve to be deprived of the benefit they receive from their Lord if they commit Felony, in the same fashion as rebellious vassals are of their Estates. These premises being allowed, this question may be easily resolved; for if God hold the place of Soveraign Lord, and the King as Vassal: who dare deny but that we must rather obey the Soveraign than the Vassal? If God commands one thing, and the King commands the contrary, what is that proud man that would term him a Rebel which refuseth to obey the King, when else he must disobey God. But on the contrary he should rather be condemned, and held for truly rebellious, which omits to obey God, or which will obey the King, when he forbids him to yeild Obedience to God. Briefly, if God calls us on the one side to enrole us in his Service, and the King on the other, is any man so void of reason as he will not say we must leave the King and apply our selves to Gods Service: so far be it from us to believe, that we are bound to obey a King, commanding any thing contrary to the Law of God, that contrarily in obeying him we become Rebels to God; no more, nor less than we would esteem a Countrey-man a Rebel, which for the Love he bears to some rich and antient inferiour Lord, would bear Arms against the Soveraign Prince, or which had rather obey the Writs of an Inferior Judg than of a Superior, the Commandments of a Lieutenant of a Province, than of a Prince; to be brief, the Directions of an Officer rather than the express Ordinances of the King himself. In doing this we justly incur the malediction of the Prophet *Micha*, which doth detest and curse in the name of God all those Mich. 6. 18.

which obey the wicked and perverse Ordinances of Kings. By the Law of God we understand the two Tables given to *Moses*, in the which, as in unremoveable bounds the authority of all Princes ought to be fixed. The first comprehends that which we owe to God, the second that which we must do to our Neighbours; briefly, they contain Piety and Justice conjoyned with Charity, from which the Preaching of the Gospel doth not derogate, but rather authorize and confirm. The first Table is esteemed the Principal, as well in order as in dignity. If the Prince command to cut the throat of an innocent, to pillage and commit extortion, there is no man (provided he have some feeling of Conscience) that would execute such a Commandment. If the Prince have committed some Crime, as Adultery, Parricide, or some other wickedness, behold amongst the Heathen, the learned *Lawyer Papinian* which will reprove *Caracalla* to his face, and had rather dye than obey, when his cruel Prince commands him to lie and palliate his Offence; nay, although he threaten him with a terrible death, yet would he not bear false witness; what shall we then do, if the Prince command us to be *Idolaters*, if he would have us again crucifie Christ Jesus, if he enjoyns to blaspheme and despite God, and to drive him (if it were possible) out of Heaven, is there not yet more reason to disobey him, than to yield obedience to such extravagant commands? Yet a little farther, seeing it is not sufficient to abstain from evil, but that we must do good, instead of worshipping of Idols, we must adore and serve the true God, according as he hath commanded us, and instead of bending our knees before *Baal*, we must render to the Lord the honour and service which he requires of us: For we are bound to serve God for his own sake only, but we honour our Prince, and love our Neighbour, because and for the Love of God. Now if it be ill done to offend our Neighbour, and if it be a capital Crime to rise against our Prince, how shall we intitle those that rise in rebellion against the Majesty of the Soveraign Lord of all Mankind; briefly, as it is a thing much

more

more grievous to offend the Creator, than the creature, Man, than the Image he represents; and as in Terms of Law, he that hath wounded the proper Person of a King, is much more culpable, than another that hath only broken the Statue erected in his Memory; so there is no question, but a much more terrible punishment is prepared for them, which infring the first Table of the Law, than for those which only sin against the second, although the one depend of the other; whereupon it follows (to speak by comparison) that we must take more careful regard to the Observation of the first than of the second. Furthermore, our Progenitors Examples may teach us the Rule we must follow in this Case. King *Ahab* at the instigation of his Wife *Jesabel*, killed all the Prophets and Servants of God that could be taken, notwithstanding *Abdias* Steward of *Ahab*'s House did both hide and feed in a Cave a hundred Prophets, the excuse for this is soon ready; in obligations oblige they never so neatly, the Divine Majesty must always be excepted. The same *Ahab* enjoyned all Men to sacrifice to *Baal*. *Elias* instead of cooling or relenting did reprove more freely the King, and all the People, convinced the Priests of *Baal* of their Impiety, and caused them to be executed. Then in despite of that wicked and furious *Jesabel*, and maugre that uxorious King, he doth redress and reform with a Divine and Powerful Endeavour the Service of the true God. When *Ahab* reproached him (as the Princes of our times do) that he troubled *Israel*, that he was rebellious, seditious, Titles wherewith they are ordinarily charged, which are no way culpable thereof; nay, but it is thou thy self, answered *Elias*, which by thy Apostasie hath troubled *Israel*, which hath left the Lord the true God, to acquaint thy self with strange Gods his Enemies, in the same manner and by the leading and direction of the same spirit did *Sidrac Misack*, and *Abednego* refuse to obey *Nebuchadnezzar*, *Daniel Darius*, *Eleazar Antiochus*, and infinit others. After the coming of Jesus Christ, it being forbidden the Apostles to preach the Gospel. Judge ye, (said they) whether it be

1 King. 18.4.

1 King. 18.17.

Dan. 3. 18. and 6. 10. 13. Act. 4. 19.

Philo Judeus in his discourse of his Embassage to *Cyrus*. S. *Ambros.* in the Epist. 33

 reasonable

reasonable as in the sight of God to obey men, rather then God; according to this the Apostles, not regarding neither the intendments nor designs of the greatness of the World, addressed themselves readily to do that which their Master Jesus Christ had commanded them. The *Jews* themselves would not permit that there should be set up in the Temple at *Jerusalem* the Eagle of Silver, nor the statue of *Caligula*: what did *Ambrose* when the Emperour *Valentinian* commanded him to give the Temple at *Millan* to the *Arrians*? *Thy Counsellors and Captains are come unto me*, said he, *to make me speedily deliver the Temple, saying it was done by the Authority and command of the Emperor, and that all things are in his power.* I answered to it, *That if he demanded that which is mine, to wit, mine inheritance, my Money, I would not in any sort refuse it him, although all my goods belong properly to the poor, but the things divine are not in subjection to the power of the Emperor.* What do we think that this Holy Man would have answered, if he had been demanded whether the living Temple of the Lord should be enthrawled to the slavery of Idols. These Examples, and the constancy of a Million of Martyrs, which were Glorious in their deaths, for not yeilding obedience in this kind, according as the Ecclesiastical Histories, which are full of them, do demonstrate, may sufficiently serve for an express Law in this case. But for all this we have no want of a Law formerly written: For as often, and ever as the Apostles admonish Christians to obey Kings and Magistrates, they do first exhort, and as it were by way of advice, admonish every one to subject himself in like manner to God, and to obey him before and against any whatsoever, and there is no where to be found, in any of their writings, the least passage for this unlimitted obedience, which the flatterers of *Princes* do exact from men of small understandings. *Let every soul*, saith Saint *Paul*, Rom. 13. 1. *be subject to the higher powers, for there is no power but of God:* he makes mention of every Soul, to the end it may not be thought, that he would exempt any from

from this subjection; we may easily gather by divers such Speeches, that we must obey God rather than the King; For if we obey the King, because, and for the love of God certainly this obedience may not be a conspiracy against God: But the Apostle will stop the gap to all ambiguity in adding that the Prince is the Servant of God for our good, to wit, to do justice; from this necessarily follows that which we come from touching, that we must rather obey God then him who is his Servant. This doth not yet content Saint *Paul* for he adds in the end, *Give tribute, honour and fear to whom they appertain*, as if he should say, that which was alledged by Christ, *Give to Cæsar that which is Cæsars, and to God that which is Gods*: To *Cæsar* tribute, and honour; to *God* fear. Saint *Peter* saith the same, *fear God, honour the King*; *Servants obey your Masters, not only the good and kind, but also the rigorous*, we must practice these precepts according to the order they are set down in: to wit, that as servants are not bound to obey their Masters if they command any thing which is against the Laws and ordinances of Kings: Subjects in like manner owe no obedience to Kings which will make them to violate the Law of God.

Math. 22. 21
1 pet. 2. 17. 18.

Certain lewd companions object, *that even in the things that concern the Conscience we must obey Kings, and are so shameless as to produce for witness of so wicked an opinion the Apostle* Saint Peter *and* Saint Paul, *concluding from hence, that we must yeild obedience to all that the King shall ordain, though it be to imbrace, without reply, any Superstition he shall please to establish.* But there is no man so grosly void of Sense, that sees not the impiety of these men, we reply: that Saint *Paul* saith in expres terms, we must be subject to Princes, not only for wrath, but also for conscience sake. In opposing conscience to wrath, it is as much as if the Apostle had said, that the obedience of which he speaks ought not to proceed for fear of punishment, but from the love of God, and from the reverence which we are bound to bear unto the word, in the same Sence

1 Object.

Rom. 1. 35.

Saint

St. Paul enjoyneth Servants in such manner to obey their Masters, that it be not with eye service for fear of stripes, but in singleness of heart, fearing God, and simply, to acquire the favour of men, whom they may delude, but to bear the burden laid on their Shoulders, by him whom no man can deceive.

Col. 3. 22.

In brief there is manifest difference between these two manners of Speech, to obey for Conscience sake, and to obey in those things which concern the Conscience; otherways those which had much rather loose their Lives with infinite Torments, then obey Princes which command them things contrary to the will of God, would have taught us that which these seek to perswade us to. Neither do they express themselves less impudent in that which they are accustomed to object to those which are not so well able to answer them. That Obedience is better than Sacrifice, for there is no Text in Holy Writ that doth more evidently confound them then this, which is contained in Samuel's reprehension of King Saul, for his Disobedience to the Commandment of God, in sacrificing unfittingly. If then Saul although he were a King ought to obey God, it follows in all good consequence, that Subjects are not bound to obey their King by offending of God. Briefly, those (which after the barbarous manner of the Men of Calcut) seek to imbrue the Service of God with a necessary dependance on the will of a mirable Man, and Religion of the good pleasure of the King, as if he were some God on Earth, they doubtless little value the Testimony of Holy Writ. But let them (at the least) yet learn of a Heathen Orator. *That in every publick State, there is certain degrees of Duty, for those that converse and live in it, by which may appear wherein the one are obliged to the other. Insomuch that the first part of this Duty belongs to the immortal God, the second Concerns the Country, which is their common Mother, the third, those which are of our Blood, the other parts leading us first by step to our other Neighbours. Now although the Crime of High Treason be very heinous, yet according*

2 Object.

1 Sam. 15. 22.

Cicero in the first book of offic.

l. 2. ad leg. Jul. majest. Digest.

cording to the Civilian, it always follows after Sacrilege, an Offence which properly pertains to the Lord God and his Service; insomuch that they do confidently affirm, that the robbing of a Church, in their rules esteemed a greater Crime, than to conspire against the Life of a Prince. Thus much for this first Question, wherein we perswade our selves, that any Man may receive satisfaction, if he be not utterly void of the fear of God.

The Second Question.

Whether it be lawful to resist a Prince which doth infring the Law of God, or ruine his Church, by whom, how and how far it is lawful?

THis Question seems at the first view to be of a high and difficult Nature, for so much as there being small occasion to speak to Princes that fear God: On the contrary, there will be much danger to trouble the ears of those which acknowledge no other Sovereign but themselves, for which reason few or none have medled with it, and if any have at all touched it, it hath been but as it were in passing by. The Question is, *If it be lawful to resist a Prince violating the Law of God, or ruinating the Church, or hindring the restoring of it?* If we hold our selves to the Tenure of the Holy Scripture it will resolve us. For, if in this case it have been lawful to the *Jewish* People (the which may be easily gathered from the Books of the Old Testament) yea, if it have been injoyned them, I believe it will not be denyed, that the same must be allowed to the whole people of any Christian Kingdom or Country whatsoever. In the first place it must be considered, that God having chosen *Israel* from amongst all the Nations of the Earth, to be a peculiar People to him, and covenanted with them, that they should be the people of God. This is written in divers places of *Deuteronomy*: the substance and tenor of this alliance was, *That all should be careful in their several lines, tribes, and families in the*

Deut. 7. 6. and 14. 2.

the Land of Canaan, to serve God purely, who would have a Church established amongst them for ever, which may be drawn from the testimony of divers places, namely that which is contained in the 27 Chap. of *Deuteronomy*, there *Moses* and the *Levites* covenanting as in the name of God, assembled all the people, and said unto them: *This day, Oh Israel, art thou become the people of God, obey you therefore his voice, &c. And Moses said, when thou shalt passed the River of Jordan, thou shalt set six* Tribes *on the mountain of* Gerizzim *on the one side, and the six other on the Mountain of* Eball, *and then the* Levites *shall read the Law of God, promising the Observers all felicity, and threatning woe and destruction to the breakers thereof, and all the People shall answer, Amen.* The which was afterwards performed by *Joshua*, at his entring into the Land of *Canaan*, and some few days before his death. We see by this that all the People is bound to maintain the Law of God to perfect his Church: and on the contrary to exterminate the Idols of the Land of *Canaan*, a Covenant which can no ways appertain to particulars, but only to the whole body of the People. To which also it seems the incamping of all the Tribes round about the Ark of the Lord, to have reference, to the end that all should look to the preservation of that which was committed to the custody of all. Now for the use and practise of this Covenant we may produce examples, the Inhabitants of *Gabaa* of the Tribe of *Benjamin* ravished the Wife of a *Levite*, which dyed through their violence. The *Levite* divided his Wife into twelve pieces, and sent them to the twelve Tribes, to the end that all the People together might wipe away this so horrible a crime committed in *Israel*. All the People met together at *Mizpah* and required the *Benjamites* to deliver to be punished those that were culpable of this enormous Crime, which they refused to perform, wherefore with the allowance of God himself, the States of the People with an universal consent renounce and make War against the *Benjamites*, and by this means the authority of the second Table of the Law was maintained by the detriment

Jos. 5. 24. and 24. 20, &c.

Judg. 19. 20.

and

and ruine of one entire Tribe, which had broken it in one of the precepts. For the first we have an example sufficiently manifest in *Joshua*. After that the *Reubenites*, *Gaadites*, and *Manassites* were returned into their dwellings beyond *Jordan*, they incontinently built a goodly Altar near unto the River, this seems to contrary the Commandment of the Lord, who expressly forbids to Sacrifice any where but in the Land of *Canaan* only, wherefore it was to be feared least these men intended to serve Idols. This business being communicated to the People, inhabiting on this side *Jordan*: the place assigned for the meetings of the States was at *Silo* where the Ark of the Lord was. They all accordingly met, and *Phineas* the High-Priest the Son of *Eleazar* was sent to the other to treat with them concerning this offence committed against the Law: And to the end they might know all the people had a hand in this business, they sent also the principal men of every Tribe to complain that the service of God is corrupted by this devise, that God would be provoked by this rebellion, and become an Enemy, not only to the guilty, but also to all *Israel*, as heretofore in *Baalphegor*. Briefly, that they should denounce open War against them, if they desisted not from this their manner of doing. There must of necessity have followed much mischief, if those Tribes beyond *Jordan* had not protested, that they erected that Altar only for a Memorial that the *Israelites* both on the one and the other side of *Jordan*, both did and do profess one and the same Religion, and at all times wherein ever they have shewed themselves negligent in the maintenance of the Service of God, we have seen that they have ever been punished: this is the true cause wherefore they lost two battles against the *Benjamites* according as it appears in the end of the Book of *Judges*, for in so carefully undertaking to punish the rape and outrage done to a particular person, they clearly convinced themselves of much negligent Prophanesse in the maintenance of Gods right, by their continual negligence, omission to punish both corporal and spiritual

Jos. 22.

whoredoms, there was then in these first times such a Covenant between God and the People.

A covenant between God the King and the people. 2 King. 11. 17. and 23. 3.

Now after that Kings were given unto the People, there was so little purpose of disannulling or disbanding the former contract; that it was renewed and confirmed for ever. We have formerly said at the inaugurating of Kings, there was a double Covenant treated of, to wit, *between God, and the King*; and *between God, and the People*. The agreement was first passed between *God, the King, and the People*: Or between the *High Priest, the People* (which is named in the first place in the 23. Chapter in the 2 Book of the *Chronicles*) *and the King*. The intention of this was, that the *People should be the People of God* (which is as much as to say) *that the People should be the Church of God*, we have shewed before to what end God contracted Covenants with the King. Let us now consider wherefore also he allies himself with the People. It is a thing most certain, that God hath not done this in vain, and if the People had not *authority to promise, and to keep promise*, it were vainly lost time to contract or covenant with them. It may seem then that God hath done like those creditors, which having to deal with not very sufficient borrowers, take divers joyntly bound for one and the same Sum; inasmuch as two or more being bound one for another, and each of them apart, for the intire payment of the total Sum, he may demand his whole debt of which of them he pleaseth. There was much danger to commit the custody of the Church to one Man *alone*, and therefore God did recommend, and put it in trust *to the People*. The King being raised to so slippery a place might easily be corrupted, for fear least the Church should stumble with him, God would have the People also to be respondents for it, in the Covenant of which we speak. God, or (in his place) the *High Priest* are stipulators, the King and all the People, to wit, *Israel*, do joyntly and voluntarily assume, promise, and oblige themselves for one and the same thing. The High Priest demands if they promise, that the People shall be the People of

2 chron. 23. 16.

God

God, that God shall always have his Temple, his Church amongst them, where he shall be purely served. The King is respondent, so also are the People (the whole Body of the People representing as it were the office and Place of one Man) not severally, but joyntly, as the words themselves make clear, being incontinent, and not by intermission or distance of time the one after the other. We see here then two undertakers, the *King* and *Israel*, which by consequent are bound one for another and each for the whole. For as when *Caius* and *Titius* have promised joyntly to pay to their Creditor *Seius* a certain sum, each of them are bound for himself and his companion, and the Creditor may demand the sum of which of them he pleaseth. In the like manner the *King* for himself, and *Israel* for it self are bound with all circumspection to see that the Church be not damnified, if either of them be negligent of their Covenant, God may justly demand the whole of which of the two he pleaseth, and the more probably of the people then of the King, and for that many cannot so easily slip away as one, and have better means to discharge the debts then one alone. *In like manner, as when two men that are indebted, especially to the publick Exchequer, the one is in such manner bound for the other, that he can take no benefit of the division granted by the new Constitutions of Justinian: So likewise the King and Israel promising to pay tribute to God, which is the King of Kings, for accomplishment whereof, the one is obliged for the other. And as two Covenanters by promise, especially in contracts, the obligation whereof exposeth the Obligees to forfeitures and hazards, such as this is here, the failing of the one indamageth the other: so that if Israel forsake their God, and the King makes no account of it, he is justly guilty of Israels delinquency. In like manner, if the King follow after strange Gods, and not content to be seduced himself, seek also to attract his Subjects, endeavouring by all means to ruine the Church, if Israel seek not to withdraw him from his rebellion, and contain him within the limits of obedience, they make the fault of their King, their own*

L. Mortuo 22. D. de fidei com. L. si non singuli C. ficert. Pet. l. penult. D. de duo reis 2 and 3. sect. 1. D. eodem.

L. cum pos. D. de censib. and ibi doctores.

L. cum apparebit, D. locati. L. si divisa. C. eodem.

transgression. Briefly, as when there is danger that one of the debtors by consuming his goods may be disabled to give satisfaction, the other must satisfie the creditors, who ought not to be endamaged, though one of his debtors have ill Husbanded his Estate, this ought not to be doubted in regard of *Israel* toward their King, and of the King towards *Israel* in case one of them apply himself to the Service of Idols, or break their Covenant in any other sort, the one of them must pay the forfeiture and be punished for the other. Now that the Covenants of which we at this time treat, is of this Nature, it appears also by other Testimonies of Holy Scripture. *Saul* being established King of *Israel*, *Samuel* Priest and Prophet of the Lord, speaks in this manner to the people. *Both you and your King which is over you serve the Lord your God, but if you persevere in malice* (he taxeth them of malice for that they preferred the Government of a Man before that of God) *you and your King shall perish*. He adds after the reason, *for it hath pleased God to chuse you for his People*. You see here both the parties evidently conjoyned in the condition and the Punishment: In like manner *Asa* King of *Judah*, by the Council of the Prophet *Azary*, assembleth all the People at *Jerusalem*, to wit, *Juda* and *Benjamin*, to enter into Covenant with God. Thither came also divers of the Tribe of *Ephraim Manasses*, and *Simeon*, which were come thither to serve the Lord according to his own ordinance After the Sacrifices were performed according to the Law, the Covenant was contracted in these terms, *Whosoever shall not call upon the Lord God of Israel, be he the least or the greatest, let him dye the Death*. In making mention of the greatest, you see that the King himself is not excepted from the designed Punishment.

1 Sam. 12. 14. 25.

2 King. 23. 2.

But who may punish the King (for here is question of Corporal and Temporal Punishment?) If it be not the whole Body of the People to whom the King Sweareth and obligeth himself, no more nor less, than the people do to the King, we read also that King *Josias* being of the Age of twenty and five Years, together

2 Chron. 4. 29.

gether with the whole people, doth make a Covenant with the Lord, the King and the People promiſing to keep the Laws, and Ordinances of God, and even then for the better accompliſhing of the Tenour of this agreement, the Idolatry of *Baal* was preſently deſtroyed. If any will more exactly turn over the Holy Bible, he may well find other Teſtimonies to this purpoſe.

But to what purpoſe ſhould the conſent of the people be required, wherefore ſhould *Iſrael* or *Juda* be expreſly bound to obſerve the Law of God? for what reaſon ſhould they promiſe ſo ſolemnly to be for ever the people of God? If it be denied, by the ſame reaſon that they had any Authority from God, or power to free themſelves from perjury, or to hinder the ruine of the Church. For to what end ſhould it ſerve to cauſe the people to promiſe to be the people of God, if they muſt, and are bound to endure and ſuffer the King to draw them after ſtrange Gods. If the people be abſolutely in Bondage wherefore is it commanded then, to take order that God be purely ſerved? if it be ſo that they cannot properly oblige themſelves to God, and if it be not lawful for them by all to indeavour the accompliſhment of their promiſe, ſhall we ſay that God hath made an agreement with them, which had no right neither to promiſe, nor to keep promiſe? But on the contrary, in this buſineſs of making a Covenant with the people, God would openly and plainly ſhow, that the people hath right to make, hold, and accompliſh their promiſes and contracts. For, if he be not worthy to be heard in publick Court that will bargain or contract with a ſlave, or one that is under tutillage, ſhall it not be much more ſhameful to lay this imputation upon the Almighty, that he ſhould contract with thoſe which had no power to perform the conditions covenanted? But for this occaſion it was, that when the Kings had broken their Covenants, the Prophets always addreſſed themſelves to the Houſe of *Juda* and *Jacob*, and to *Samaria*, to advertiſe them of their duties.

L. quod attinet. 32. 1. D. de reg. jur.

ties. Furthermore, they required the people that they not only with-draw themselves from sacrificing to *Baal*, but also that they cast down his Idol, and destroy his Priests and service; yea, even *maugre the King* himself. For example, *Ahab* having killed the Prophets of God, the Prophet *Elias* assembleth the people, and as it were convented the Estates, and doth there Tax, reprehend, and reprove every one of them; the people at his exhortation do take and put to Death the Priests of *Baal*. And for so much as the King neglected his duty, it behoved *Israel* more carefully to discharge theirs without tumult, not rashly, but by *publick Authority*, the Estates being assembled, and the equity of the cause orderly debated, and sufficiently cleared before they came to the execution of justice. On the contrary, so often, and always when *Israel* hath failed to oppose their King, which would overthrow the Service of God, that which hath been formerly said of the two Debtors, the inability and ill Husbandry of the one doth ever prejudice the other, the same hapned to them; for as the King hath been punished for his Idolatry and Disloyalty, the people have also been chastised for their negligence, connivency, and stupidity, and it hath commonly hapned, that the Kings have been much more often swarved, and drawn others with them then the people, for so much as ordinarily the great ones mould themselves into the Fashion of the King, and the people conform themselves in Humors to those that govern them: to be Brief, all more usually offend after the Example of one, then that one will reform himself as he seeth all the rest. This which we say will perhaps appear more plainly by Examples; what do we suppose to have been the cause of the defeat and overthrow of the Army of *Israel* with their King *Saul*. Doth God correct the people for the sins of the Prince? Is the Child beaten instead of the Father? It is a discourse not easily to be digested, say the Civilians, to maintain that the Children should bear the Punishments due for the offences of their Fathers; the Laws do not permit that any one shall suffer for the

1 Sam. 31.

wickedness

wickedneſs of another. Now God forbid that the Judge of all the World (ſaith *Abraham*) ſhould deſtroy the innocent with the guilty: On the contrary (ſaith the Lord) as the life of the Father, ſo the life of the Son is in my hande; the Fathers ſhall not be put to Death for the Children, neither ſhall the Children be put to Death for the Fathers; every man ſhall be put to Death for his own Sin; that overthrow then, did it not proceed for that the people oppoſed not *Saul*, when he violated the Law of God; but applauded that miſerable Prince when he wickedly perſecuted the beſt men, as *David* and the Prieſts of the Lord. Amongſt many other Examples let us only produce ſome few. The ſame *Saul* to enlarge the poſſeſſions of the Tribe of *Juda* broke the publick Faith granted to the *Gibeonites*, at the firſt entry of the people into the Land of *Canaan*, and put to Death as many of the *Gibeonites* as he could come by. By this execution *Saul* did break the third Commandment, for God had been called to witneſs this agreement, and the ſixth alſo, in ſo much as he Murthered the Innocent, he ought to have maintained the Authority of the two Tables of the Law; and thereupon it is ſaid, that *Saul* and his Houſe have committed this wickedneſs. In the mean time, after the death of *Saul*, and *David* being eſtabliſhed King, the Lord being demanded, made anſwer that it was already the third Year that the whole Country of *Iſrael* was afflicted with Famin, becauſe of this cruelty, and the hand of the Lord ceaſed not to ſtrike, until that ſeven men of the Houſe of *Saul* were given to the *Gibeonites*, who put them to Death; ſeeing that every one ought to bear his own burden, and that no man is eſteemed the inheritor of anothers crime; wherefore they ſay, that all the whole people of *Iſrael* deſerves to be puniſhed for *Saul*, who was already dead, and had (as it might ſeem) that controverſie buried in the ſame grave with him, but only in regard that the people neglected to oppoſe a miſchief ſo publick and apparent, although they ought and might have done it: Think you it reaſon, that any ſhould be puniſhed unleſs they deſerve it? And in what hath-

Gen. 18. 25. Deut. 24. 16. 2 King. 14. 6. Ezech. 18. 20.

2 Sam. 21. 1.

L. crimen. 26. D. de pœn.

L. ſancimus. 6. de pœn.

hath the people here failed, but in suffering the offence of their King. In like manner when *David* commanded *Ioab*, and the Governors of *Israel* to Number the people, he is Taxed to have committed a great fault; for even as *Israel* provoked the anger of God in demanding a King, one in whose wisdom they seemed to repose their safety: even so *David* did much forget himself, in hoping for Victory through the multitude of his Subjects; for so much as that is properly (according to the saying of the Prophet) to Sacrifice unto their Net, and burn incense unto their drag, a kind of abominable Idolatry; for the Governors, they seeing that it would draw Evil on the people, a little drew back at the first; afterwards, as it were, to be rid of the importunity they made the enrolement: in the mean Season all the people are punished, and not *David* alone, but also the Ancients of *Israel*, which represented the whole Body of the people, put on sackcloath and ashes, the which notwithstanding was not done nor practised when *David* committed those horrible sins of Murther and Adultery. Who sees not in this last Act, that all had sinned, and that all should repent; and finally that all were chastised, to wit *David* that had provoked God by so wicked a Commandment, the Governors (as Peers and Assessors of the Kingdom, ought in the Name of all *Israel* to have opposed the King) by their connivency, and over weak resistance; and all the people also which made their appearance to be enroled. God in this respect did like a Chief Commander, or General of an Army, he chastised the offence of the whole Camp, by a sudden Alarum given to all, and by the exemplary Punishments of some particulars to keep all the rest in better awe and order. But tell me wherefore after that the King *Manasses* had polluted the Temple at *Jerusalem*, do we read that God not only Taxed *Manasses*, but all the people also? was it not to advertise *Israel* one of the sureties, that if they keep not the King within the limits of his duty, they should all smart for it; for what meant

1 Sam. 24. 2. 2 Chron. 21. 2.

Abacuc. 1. 16.

2 King. 24. 4. 2 Chron. 33. 10.

Jer. 15. 4.

meant the Prophet *Jeremy* to say, the Houſe of *Juda* is in ſubjection to the *Aſſirians*, becauſe of the impiety and cruelty of *Manaſſes*; but that they were guilty of all his offences, becauſe they made no reſiſtance; wherefore *St. Auſtin* and *S. Ambroſe* ſaid *Herod* and *Pilate* condemned Jeſus Chriſt, the Prieſts delivered him to be crucified, the People ſeem to have ſome compaſſion, notwithſtanding all are puniſhed, and wherefore ſo? or ſo much as they are all guilty of his death, in that they did not deliver him out of the hands of thoſe wicked Judges and Governors, there muſt alſo be added to this many other proofs drawn from divers Authors for the further explication of this point, were it not that the teſtimonies of Holy Scripture ought to ſuffice Chriſtians. Furthermore, in ſo much as it is the duty of a good Magiſtrate, rather to endeavour to hinder and prevent a miſchief, than to chaſtiſe the delinquents after the offence is committed, as good Phyſitians that preſcribe a diet to allay and prevent Diſeaſes, as well as Medicins to cure them. In like manner a People truly affected to true Religion, will not ſimply conſent themſelves to reprove and repreſs a Prince that would aboliſh the Law of God, but alſo will have ſpecial regard, that through malice and wickedneſs he innovate nothing that may hurt the ſame, or that in traſt of time may corrupt the pure ſervice of God; and inſtead of ſupporting publick offences committed againſt the Divine Majeſty, they will take away all occaſions wherewith the offenders might cover their faults; we read that to have been practiſed by all *Iſrael* by a Decree of Parliament in the Aſſembly of the whole People, to remonſtrate to thoſe beyond *Jordan*, touching the Altar they had builded, and by the King *Ezechias*, which cauſed the braſen Serpent to be broken. It is then lawful for *Iſrael* to reſiſt the King, which would overthrow the Law of God and aboliſh his Church, and not only ſo, but alſo they ought to know that in neglecting to perform this duty, they make themſelves culpable of the ſame crime, and ſhall bear the like Puniſhment with their King.

S. *Auguſt.* upon Pſal. 82. *Ambro. in offic.*

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If their assaults be verbal, their defence must be likewise verbal, if the Sword be drawn against them, they may also take Arms, and fight either with tongue or hand, as occasion is: yea, if they be assailed by surprisals, they may make use both of ambuscadoes and countermines, there being no rule in lawful War, that directs them for the manner, whether it be by open assailing their enemy, or by close surprising; provided always, that they carefully distinguish between advantageous strategems, and perfidious Treason, which is always unlawful.

August. in Josh. 23. q. 2.

But I see well, here will be an objection made, what will you say? That a whole People, that beast of many heads, must they run in a mutinous disorder, to order the business of the Common-wealth? What address or direction is there in an unruly and unbridled multitude? what counsel or Wisdom, to manage the affairs of State?

Dominus l. 1. D. de dolo malo.

When we speak of all the people, we understand by that, only those which hold their Authority from the people, to wit, the Magistrates, which are inferiour to the King, and whom the people hath substituted, or established, as it were Comforts in the Empire, and with a kind of Tribunitial authority, to refrain the encroachments of Sovereignty, and to represent the whole body of the People. We understand also, the Assembly of the Estates, which is nothing else but an Epitomy, or brief collection of the Kingdom, to whom all publick Affairs have special and absolute reference: such were the Seventy Ancients in the Kingdom of *Israel*, amongst whom the High Priest was as it were President, and they judged all matters of greatest importance, those seventy being first chosen by six out of each Tribe, which came out of the Land of *Egypt*, then the Heads or Governors of Provinces, in like manner the Judges and Provosts of Towns, the Captains of thousands, the Centurions and others which commanded over Families the most valiant noble and otherwise notable Personages, of whom was composed the Body of the States assembled divers times as it plainly appears by the word

What is to be understood by this word people.

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of the Holy Scripture. At the Election of the first King which was *Saul*, all the Antients of *Israel* assembled together at *Rama*. In like manner and all *Israel* was assembled, or all *Judah* and *Benjamin*, &c. Now it is no way probable, that all the People one by one met together there. Of this rank there are in every well governed Kingdom, the Princes, the Officers of the Crown, the Peers, the greatest and most notable Lords, the Deputies of Provinces, of whom the ordinary Body of the Estate is composed, or the Parliament or the Diet, or other Assembly, according to the different Names used in divers Countries of the World in which Assemblies the principal care is had both for the preventing and reforming either of disorder or detriment in Church or Common-wealth. For as the Councils of *Basil* and *Constance* have decreed (and well decreed) that the universal Council is in Authority above the Bishop of *Rome*. As in like manner the whole Chapter may over-rule the Bishop, the University, the Rector, the Court, the President: Briefly he whosoever he is that hath received authority from a Company, is inferior to that whole company, although he be superior to any of the particular Members of it. Also is it without any scruple or doubt, that *Israel* which demanded and established a King as Governor of the Publick must needs be above *Saul* established at their request, and for *Israel's* sake as it shall be more fully proved hereafter. And for so much as an orderly proceeding is necessarily required in all affairs discretely addressed, and that it is not so probably hopeful that order shall be observed amongst so great a number of people; yea, and that there often-times occurs occasions which may not be communicated to a multitude, without manifest danger of the Common-wealth. We say, that all that which hath been spoken of Priviledges granted, and right committed to the People, ought to be referred to the Officers and Deputies of the Kingdom: and all that which hath been said of *Israel*, is to be understood of the Princes and Elders of *Israel*, to whom these things were granted and committed as the Practise also hath verified. 1 Sam. 8. 4.

2 Chron. 23. The Queen *Athalia* after the death of her Son *Ahazia* King of *Judah*, put to death all those of the royal blood, except little *Joas*, which being yet in the cradle was preserved by the Piety and Wisdom of his Aunt *Jehoshabeah*. *Athalia* possesseth her self of the government, and reigned six years over *Judah*. It may well be the People murmured between their Teeth, and durst not by reason of danger express what they thought in their minds. Finally, *Jehoida* the High-Priest the husband of *Jehoshabeah*, having secretly made a League and Combination with the chief Men of the Kingdom, did anoint and Crown King his Nephew *Joas*, being but seven years old. And he did not content himself to drive the Queen Mother from the Royal Throne, but he also put her to death and presently overthrew the Idolatry of *Baal*. This deed of *Jehoiada* is approved, and by good reason, for he took on him the defence of a good Cause, for he assailed the Tyranny, and not the Kingdom. The Tyranny (I say) which had no Title, as our modern Civilians speak. For by no Law were Women admitted to the Government of the Kingdom of *Judah*. Furthermore, that Tyranny was in vigor and practice: For *Athalia* had with unbounded mischief and cruelty invaded the Realm of her Nephews, and in the administration of that Government committed infinite wickedness, and which was the worst of all, had cast off the Service of the living God to adore and compel others with her to worship the Idol of *Baal*. Therefore then was she justly punished, and by him which had a lawful calling and authority to do it. For *Jehoida* was not a privat and particular Person, but the High Priest, to whom the knowledg of civil Causes did then belong: And besides he had for his Associates, the principal Men of the Kingdom, the *Levites*, and being himself the Kings kinsman and ally. Now for so much as he assembled not the estates at *Mizpah* according to the accustomed manner, he is not reproved for it, neither for that he consulted and contrived the matter secretly, for that if he had held any other manner of proceeding, the business must

Bartol de Tirannid.
Deut. 17. 15.

probably

probably have failed in the execution and success.

A combination or conjuration is good or ill according as the end whereunto it is addressed is good or ill; and perhaps also according as they are affected which are the managers of it. We say then that the Princes of *Judah* have done well, and that in following any other course they had failed of the right way. For even as the Guardian ought to take charge and care that the goods of his Pupil fall not into loss and detriment, and if he omit his duty therein, he may be compelled to give an account thereof: In like manner, those to whose custody and tuition the People have committed themselves, and whom they have constituted their Tutors and Defenders ought to maintain them safe and entire in all their rights and priviledges. To be short, as it is lawful for a whole People to resist and oppose Tyranny; so likewise the principal Persons of the Kingdom may as Heads, and for the good of the whole Body, confederate and associate themselves together, and as in a publick State, that which is done by the greatest part is esteemed and taken as the Act of all, so in like manner must it be said to be done, which the better Part of the most Principal have acted, briefly, that all the People had their hand in it.

Bartol. in tract. de Guelph. and Gibel.

Ulp. l. 960. D. de rog. juri.

But here presents it self another Question the which deserves to be considered, and amply debated in regard of the circumstance of time. Let us put the case that a King seeking to abolish the Law of God, or ruine the Church, that all the people or the greatest part yeild their consents, that all the Princes or the greatest Number of them make no reckoning, and notwithstanding, a small handful of people, to wit, some of the Princes and Magistrates desire to preserve the Law of God entirly and inviolably, and to serve the Lord purely: what may it be lawful for them to do? if the King seek to compel those men to be Idolatrous, or will take from them the exercise of true religion? We speak not here of private and particular persons considered one by one, and which in that manner are not held

Whether part of a Kingdom may make resistance.

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as parts of the entire body; As the planks, the Nails, the pegs, are no part of the Ship, neither the stones, the Rakers, nor the rubbish are any part of the House: but we speak of some Town or Province, which makes a portion of a Kingdom, as the prow, the poop, the keel and other parts make a Ship: the Foundation, the Roof, and the Walls make a House. We speak also of the Magistrate which governs such a City or Province. If we must make our Defence with producing of Examples, although we have not many ready by reason of the backwardness and carelessness of men when there is Question to maintain the service of God: notwithstanding, we have some few to be examined and received according as they deserve. *Libna*, a Town of the Priests withdrew it self from the obedience of *Joram* King of *Judah*, and left that Prince, because he had abandoned the God of his Fathers whom those of that Town would serve, and it may be they feared also left in the end they should be compelled to Sacrifice to *Baal*. In like manner when that the King *Antiochus* Commanded that all the Jews should imbrace his Religion, and should forsake that which the God Almighty had taught them *Mattathias* answered, we will not obey, nor will we do any thing contrary to our Religion, neither did he only speak, but also being transported with the zeal of *Phinees*, he killed with his own hands a *Jew*, which constrained his fellow Citizens to sacrifice to Idols; then he took Arms and retired into the Mountain, gathered Troops, and made War against *Antiochus*, for Religion and for his Country with such success, that he regained *Jerusalem*, broke and brought to nothing the power of the Pagans which they had gathered to ruine the Church, and then reestablish'd the pure service of God. If we will know who this *Mattathias* was, he was the Father of the *Machabees* of the Tribe of *Levi*; insomuch as it was not lawful for him according to the received customs and right of his race to exhort the Kingdom by Arms from the Tyranny of *Antiochus*. His followers were such as fled

John 21. 13. 1 Chron. 6. 17. 2 Chron. 21. 10.

1 Mac. 1. 43. and 2. 22. and 3. 43.

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to the Mountains together, with the inhabitants of *Modin*, to whom had adjoyned themselves divers neighbouring *Jews*, and other fugitives from sundry quarters of *Judea*; all which solicitously desired the re-establishment of the Church. Almost all the rest, yea, the principals obeyed *Antiochus*, and that after the rout of his Army, and his own miserable Death: Although there were then a fair occasion to shake off his yoke, yet the *Jews* sought to the Son of *Antiochus*, and intreated him to take on him the Kingdom, promising him fidelity and obedience. I might here produce the example of *Debora*. The Lord God had subjected *Israel* to *Jabin* King of *Canaan*, and they had remained in this servitude the space of twenty years, which might seem in some sort to have gained a right by prescription over the Kingdom; and together also that almost all *Israel* followed after strange Gods. The principal and most powerful Tribes, to wit, *Ruben*, *Ephraim*, *Benjamin*, *Dan*, *Asher*, and some others adhered wholly to *Jabin*. Yet notwithstanding the Prophetess *Debora* which judged *Israel*, exalted the Tribes of *Zebulon*, *Nephthalie*, and *Issachar*, or at the least some of all those Tribes, to take Arms under the Conduct of *Barac*, and they overthrew *Sisera* the Lieutenant of *Jabin*, and delivered *Israel*, which had no thought of Liberty, and was content to remain in Bondage; and having shaken off the yoke of the *Canaanites* they re-established the pure service of the living God. But for so much as *Debora* seems to have an extraordinary vocation, and that the Scripture doth not approve in express terms the doings of them of *Libna*, although that in not disallowing of their proceedings, it may seem in some sort to allow them, and for that the History of the *Machabees* hath had no great Authority in the Ancient Church, and for that it is commonly held that an assertion must be proved by Laws and Testimonies, not by examples, let us examine by the effect what we ought to judge according to the right of the Matter now in question. We have formerly

1 Mac. 6. 21. &c.

former he said that the King did swear to keep the Law of God, and promised to the uttermost of his Power to maintain the Church: that the People of *Israel* considered in one Body covenanting by the High-Priest, made the same Promise to God. Now at this present we say, that all the Towns and all the Magistrates of these Towns which be parts and portions of the Kingdom, promise each of them in his own behalf, and in express terms the which all Town and Christian Communalties have also done although it have been but with a tacite consent.

Josuah 24. *Josua* being very old and near to his death, assembled all *Israel* at *Sichem* in the presence of God, to wit, before the Ark of the Covenant which was there. It is said that the Ancients of the People, the Heads of the Tribe, the Judges and Governors, and all which had any publick command in the Town of *Israel* met together there, where they swore to observe and keep the Law of the Lord, and did willingly put on the yoke of the Almighty God: whereby it appeareth that these Magistrates did oblige themselves in the Names of their Towns and Communalties which did send them to take order, that God should be served throughout the whole Country, according as he had revealed in his Law. And *Josuah* for his part having passed this contract of agreement between God and the People, and inregistred the whole according as it was done, for a perpetual memorial of the matter he incontinently set up a Stone.

1 Chron. 13. 2 Chron. 3. 1 Kings 7. 1 Chron. 28. 2 Kings 11. 2 Kings 23. 2 Chron. 23. If there were occasion to remove the Ark of the Lord, The principals of the Country and Towns, the Captains, the Centurions, the Provosts, and others were summoned by the Decree and Commandment of *David*, and of the Synagogue of *Israel*, if there be a purpose of building the Lords Temple, the same course is observed. And to the end it be not supposed, that some alteration hath been inferred since the Creation of Kings: In the times of *Josias* and *Josias*, when there was question of renewing the Covenant between God and the People, all the Estates met together, and all were bound and obliged particularly. Also not only

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the King, but the Kingdom, and not only all the Kingdom, but also all the Pastors of the Kingdom promise each of them for their selves, fidelity and obedience to God. I say again, that not only the King and the People, but also all the Towns of *Israel*, and their Magistrates, oblige themselves to God, and as homagers to their liege Lord, tie themselves to be his for ever, with and against all men; for further proof of the aforesaid, I would entreat the Reader to diligently turn over the Holy Bible, especially in the Books of the *Kings* and the *Chronicles*. But for a yet more ample explication of this matter, let us produce for example what is in practise at this day, in the Empire of *Germany*, when the Emperor is to be crowned, the Electors and Princes of the Empire, as well Secular as Ecclesiastical, meet together personally, or else send their Ambassadors. The Prelates, Earls and Barons, and all the Deputies of the Imperial Towns, come thither also, or else send special Proxies, then do they their homage to the Emperor, either for themselves, or for them whom they represent, with, and under, certain Conditions: Now let us presuppose that one of these which hath done homage voluntarily, do afterwards endeavor to depose the Emperor, and advance himself into his place, and that the Princes and Barons deny their Soveraign the succors and tribute which they owe him, and that they have intelligence with that other which conspired and sought to possess himself of the Imperial Throne; Think you that they of *Strasburgh* or of *Norenberg*, which have bound themselves by faith unto the lawful Emperor, have not lawful right to repress and exclude this Traytorous Intruder? Yea, on the contrary, if they do it not, if they give not succors to the Emperor in this his necessity, think you that they have satisfied or performed their fealty and promise, seeing that he which hath not preserved his Governour when he had means to do it, ought to be held as culpable and guilty, as he which offered the violence and injury unto him.

L. 3. *l. Omne delict. Sect. ult. D. de re mil.*

If it be so (as every one may sufficiently see it is) is it not then lawful for the men of *Lisbon* and of *Modin*? and doth not their duty enjoyn them to do as much as if the other Estates of the Kingdom have left God to whose service and pleasure they know and acknowledge themselves to be bound to render obedience. Let us imagine then some *Joram* or *Antiochus* which aboliseth true Religion, and lifts up himself above God, that *Israel* connives and is content, what should that Town do which desires to serve God purely? First, they should say with *Josbua*, for their parts, look whom you desire rather to obey, the living God, or the Gods of the *Amorites*, for our parts we and our Families will serve the Lord. Chuse you then I say, if you will obey in this point him, which without any right usurps that power and Authority which no way appertains unto him, for my part, hap what may, I will keep my faith to him to whom I promised it. I make no question but that *Josbua* would have done the uttermost of his endeavour to maintain the pure service of the living God in *Thamnathe Serathe*, a Town of *Ephraim*, where his House and Estate lay; if the *Israelites* besides had so much forgot themselves as to have worshipped the God of the *Amorites* in the Land of *Canaan*. But if the King should pass yet further, and send his Lieutenants to compel us to become Idolaters, and if he commands us to drive God and his service from amongst us; shall we not rather shut our Gates against the King and his Officers, then drive out of our Town the Lord which is the King of Kings? Let the Burgesses and Citizens of Towns, Let the Magistrates and Governors of the People of God dwelling in Towns, consider with themselves that they have contracted two Covenants, and taken two Oaths: The first and most ancient with God, to whom the People have sworn to be his people: the second and next following, with the King, to whom the people hath promised obedience, as unto him which is the Governor and Conductor of the people of God. So then, as if a Vice-

Josh. 14. 15.

Roy

Roy conspiring against his Soveraign, although he had received from him an unlimited Authority, if he should summon us to deliver the King whom he held besieged within the inclosure of our Walls, we ought not to obey him, but resist with the uttermost of our power and means according to the Tenor of our Oath of Allegiance. In like manner think we that it is not a wickedness of all most detestable, if at the pleasure of a Prince which is the vassal and servant of God, we should drive God from dwelling amongst us, or deliver him (as far as in us lieth) into the hands of his Enemies. You will say, it may be that the Towns appertain to the Prince. And I answer, that the Towns consist not of a heap of stones, but of that which we call People, that the People is the People of God, to whom they are first bound by Oath: and Secondly, to the King. For the Towns, although that the Kings have power over them, notwithstanding the right of Inheritance of the Soil belongs to the Citizens and owners, for all that which is in a Kingdom, is indeed under the Dominion of the King, but not of his proper Patrimony: God in truth is the only Lord propriator of all things, and it is of him that the King holds his Royalties, and the people their Patrimony. This is as much as to say, you will reply, that for the cause of Religion it shall be lawful for the Subjects to revolt from the obedience of their King, if this be once granted, it will presently open a gap to rebellion? But hearken I pray you patiently, and consider this matter more throughly: I might answer in a word, that of two things, if the one must needs be done, it were much better to forsake the King, then God; or with St. *Augustine* in his fourth Book, of the City of God, chap. 4. and in the Nineteenth Book, and Chapter the 21. That where there is no Justice, there is no Common-wealth, that there is no Justice, when he that is a mortal man would pull another man out of the hands of the immortal God, to make him a slave of the Devil, seing that Justice is a vertue that gives to

10 *Collat de forma Fidei, & c. 1. de nova fidei. form.*

Senec. *l. 7. de Benef. c. 6, 7. &c.*

every one that which is his own, and that those which draw their Necks out of the Yoke of such Rulers, deliver themselves from the Tyranny of wicked Spirits, and abandon a multitude of robbers, and not the Commonwealth. But to re-assume this Discourse a little higher, those which shall carry themselves as hath been formerly said, seem no ways accusable of the crime of revolt. Those are said properly to quit the King or the Commonwealth, which with the heart and purpose of an Enemy withdraw themselves from the obedience of the King or the Common-wealth, by means whereof they are justly accounted Adversaries, and are often times much more to be feared, then any other Enemies. But those of whom we now speak, do nothing resemble them. First they do in no sort refuse to obey, provided that they be commanded that which they may lawfully do, and that it be not against the honour of God. They pay willingly the Taxes, Customs, Imposts, and ordinary payments, provided that with these they seek not to abolish the tribute which they owe unto God. They obey *Cæsar* while he commands in the quality of *Cæsar*; but when *Cæsar* passeth his bounds, when he usurps that Dominion which is proper of his own, when he endeavours to assail the Throne of God, when he wars against the Soveraign Lord both of himself and the People, they then esteem it reasonable not to obey *Cæsar*; and yet after this to speak properly, they do no Acts of hostility. He is properly an Enemy which lies up, which provokes another, which out of military insolency prepareth and setteth forth Power to War. They have been urged and assailed by open War, and close and treacherous surprisals, when death and destruction environs them round about, then they take arms, and wait their enemies assaults: you cannot have Peace with your enemies when you will; for if you lay down your Weapons, if you give over making War, they will not for all that disarm themselves, and loose their advantage. But for these Men, desire but Peace and you have

L. 5. D. de cap. minut.

have it, give over but assailing them, and they will lay down their Arms, cease to fight against God, and they will presently leave the lists, will you take their Swords out of their hands? abstain you only then from striking, seeing they are not the assailants, but the defendants, sheath your Sword, and they will presently cast their Buckler on the ground, which hath been the reason that they have been often surprized by perfidious ambuscadoes, whereof these our times have afforded over frequent examples. Now as we cannot call that servant stuborn or a fugitive, which puts by the blow, which his Lord strikes at him with his Sword, or which withdraws or hides himself from his Masters fury, or shuts his Chamber doot upon him, until his Choler and heat be passed over, much less ought we to esteem those seditious, which (holding the name and place of Servants and Subjects) shut the Gates of a City against their Prince, transported with anger, being ready to do all his just Commandments, after he hath recovered his judgment, and related his former indignation; we must place in this rank, *David* Commander of the Army of *Israel*, under *Saul*, a furious King. *David* oppressed with calumnies and false Taxations, watched and way-layed from all parts, he retired unto, and defended himself in unaccessible Mountains, and provided for his defence to oppose the walls of *Ceila* against the Fury of the King; yea, he drew unto his Party all those that he could, not to take away *Saul's* Life from him, as it plainly appeared afterwards, but to defend his own Cause; see wherefore *Jonathan* the Son of *Saul*, made no difficulty, to make alliance with *David*, and to renew it from time to time, the which is called the Alliance of the Almighty. And *Abigal* saith in expres words, that *David* was wrongfully assailed, and that he made the War of God. We must also place in this rank the *Machabees*, which having good means to maintain Wars, were content to receive Peace from King *Demetrius* and others, which *Antiochus* had offered them before, because by it, they should be secured in the free possession and exercise

1 *Sam.* 21. 22.
2 *Sam.* 25. 28.

Mach. 6. 60. &c.

exercise of their Religion. We may remember that those which in our times have fought for true Religion against *Antichrist*, both in *Germany* and *France*, have laid down Arms as soon as it was permitted them to serve God truely according to his Ordinance, and oftentimes having fair means and occasion to advance and continue the War to their much advantage: as had *David* and the *Machabees*, where the *Philistins* constrained *Saul* to leave *David* to look to his own defence, and those Clouds of neighbouring enemies to *Antiochus*, saw ready to dissolve upon his head, hindered him also from pursuing the *Machabees*. See then the marks which distinguish and separate sufficiently those of whom we speak from Rebels or Seditious.

But let us yet see other evident Testimonies of the equity of their cause; for their defection is of that nature, that take but away the occasion, if some extream necessity compel not the contrary, they presently return to their former condition, and then you cannot properly say, they separated themselves from the King, or the Communality; but that they left *Joram*, and *Antiochus*, or if you will, the Tyranny and unlawful power of one alone, or if divers particulars, which had no authority nor right to exact obedience in the same manner, as they commanded, The *Sorbonist* Doctors have taught us the like sundry times: whereof we will alledge some examples.

About the year 1300 Pope *Boniface* the 8 seeking to appropriate to his See, the Royalties, that belonged to the Crown of *France*: *Philip* the fair, the then King, doth taunt him somewhat sharply: the tenor of whose tart Letters are these;

Philip by the Grace of God, King of the French, to Boniface, calling himself Soveraign Bishop, little or no health at all.

Be it known to the great foolishness and unbounded rashness, that in temporal Matters we have only God for our superior, and that the vacancy of certain Churches, belongs to us by Royal Prerogative, and

and that appertains to us only to gather the fruits and we will defend the poſſeſſion thereof againſt all oppoſers, with the edge of our Swords, accounting them fools, and without brains that hold a contrary opinion. In thoſe times all men acknowledged the Pope for Gods Vicar on Earth, and Head of the Univerſal Church: Inſomuch, that (as it is ſaid) common error went inſtead of a Law, notwithſtanding the *Sorboniſts* being aſſembled, and demanded, made anſwer, that the King and the Kingdom might ſavely without blame or danger of Schiſm, exempt themſelves from his obedience, and flatly refuſe that which the Pope demanded; for ſo much as it is not the ſeparation, but the cauſe which makes the Schiſm, and if there were Schiſm, it ſhould be only in ſeparating from *Boniface*, and not from the Church, nor from the Pope, and that there was no danger nor offence in ſo remaining until ſome honeſt man were choſen Pope. Every one knows into what perplexities, the conſciences of a whole Kingdom would fall, which held themſelves ſeparated from the Church, if this diſtinction be not true. I would demand now, if it be not yet more lawful to make uſe of this diſtinction, when a King invades and incroacheth on the juriſdiction of God, and oppreſſeth with hard ſervitude, the Souls dearly bought with the pretious blood of *Jeſus Chriſt*. Let us add another example.

In the year of our Lord 1408. when Pope *Benedict* the 13. did oppoſe the *French* Church by tributes and exactions; the Clergy aſſembled, by the Command of King *Charles* the 6 decreed, That the King and Inhabitants of the Kingdom ought not to obey *Benedict*, which was an Heretick, a Schiſmatick, and altogether unworthy of that dignity: the which the Eſtates of the Kingdom approved, and the Parliament of *Paris* confirmed by a decree. The ſame Clergy alſo ordained that thoſe which had been excommunicated by that Pope, as forſakers and enemies of the Church, ſhould be preſently abſolved, nullifying all ſuch excommunications, and

Annals of France Monſtrelet.

and this hath been practised not in *France* only, but in other places also, as Histories do credibly report. The which gives us just occasion most perspicuously to see and know, that if he which holds the place of a Prince do govern ill, there may be a separation from him without incurring justly the blame of revolt; for that they are things in themselves directly contrary, to leave a bad Pope, and forsake the Church, a wicked King, and the Kingdom. To return to those of *Lobna*, they seem to have followed this before remembred expedient; for after the re-establishment of the service of God they presently became again the Subjects of King *Ezechias*. And if this distinction be allowed place, when a Pope incroacheth on the rights of any Prince, which notwithstanding in some cases acknowledgeth him for his Soveraign: Is it not much more allowable, if a Prince which is a Vassal in that respect, endeavours to assure and appropriate to himself the rights of God. Let us conclude then to end this discourse, that all the people by the authority of those, into whose hands they have committed their power, or divers of them may, and ought to reprove and repress a Prince, which Commands things against God. In like manner, that all, or at the least, the principals of Provinces or Towns, under the Authority of the chief Magistrates, established first by God, and secondly by the Prince, may according to Law and Reason, hinder the entrance of Idolatry, within the inclosure of their Walls, and maintain their true Religion: yea further, they may extend the Confines of the Church, which is but one, and in failing hereof if they have means to do it: they justly incur the penalty of High-Treason against the Divine Majesty.

2 *Kings* 19.8.

Extrav. de majo. & obed.

Whether private men may resist by Arms.

It remains now that we speak of particulars which are private Persons. First, particulars or private Persons, are not bound to take up Arms against the Prince which would compel them to become Idolaters. The Covenant between God and all the people who promise

I. sicut 7, S. 1. D. quod cujusque univers.

miſe to be the people of God, doth not in any ſort bind them to that; for as that which belongs to the whole univerſal body, is in no ſort proper to particulars: ſo in like manner that which the body owes and and is bound to perform, cannot by any ſenſible reaſon be required of particular Perſons, neither doth their duty any thing oblige them to it; for every one is bound to ſerve God in that proper vocation, to which he is called. Now private Perſons they have no Power, they have no publick command, nor any calling to unſheath the ſword of Authority; and therefore as God hath not put the Sword into the hands of private Men, ſo doth he not require in any ſort that they ſhould ſtrike with it. It is ſaid to them, *put up thy ſword into thy Scabbard.* On the contrary the Apoſtles ſays of Magiſtrates, they carry not the Sword in vain. If particular Men draw it forth they make themſelves Delinquents; If Magiſtrates be ſlow and negligent to uſe it when juſt occaſion is offered, they are likewiſe juſtly blameable of negligence in performing their duties, and equally guilty with the former. But you will ſay unto me, hath not God made a Covenant, as well with particular Perſons as with the generality, with the leaſt as well as the higheſt? To what purpoſe was Circumciſion and Baptiſm ordained? What meaneth that frequent repetition of the Covenant in ſo many Paſſages of Holy Writ? All this is true, but the conſideration hereof is diverſe in their ſeveral kinds: For as all the Subjects of a good and faithful Prince, of what degree ſoever they be, are bound to obey him; but ſome of them notwithſtanding have their particular duty, as Magiſtrates muſt hold others in obedience, in like manner all Men are bound to ſerve God; but as ſome they are placed in a higher rank, have received greater Authority in ſo much as they are accountable for the offences of others; if they attend not the charges of the Communalty carefully.

Mat. 26. 4
Rom. 13. 4

The Kings, the Communalties of the People, the Magiſtrates into whoſe hands the whole Body of the Common-wealth hath committed the ſword of authority,

must and ought to take care that the Church be maintained and preserved, particulars ought only to look that they render themselves Members of this Church. Kings and Popular Estates are bound to hinder the pollution or ruine of the Temple of God, and ought to see and defend it from all corruption within, and all injury from without. Private Men must take order, that their Bodies, the Temples of God, be pure, that they may be fit receptacles for the Holy Ghost to dwell in them. If any man defile the Temple of God, saith the Apostle, him shall God destroy; for the Temple of God is holy, which Temple ye are, to the former he gives the sword which they bear with authority; to the other he recommends the sword of the Spirit only, to wit, the word of God, wherewith St. *Paul* arms all Christians, against the assaults of the Divel, what shall then private men do? if the King will constrain them to serve Idols? If the Magistrates into whose hands the people hath consigned their Authority, or if the Magistrates of the place, where these particulars dwell, do oppose these proceedings of the King: let them in Gods name obey their leaders, and imploy all their means (as in the service of God) to aid the Holy and commendable Enterprises of those, which oppose themselves lawfully, against his wicked intention. Amongst others, they have the examples of the Centurions, and men at arms, which readily and cheerfully obeyed the Princes of *Juda*, who stirred up by *Jehoiada*, purged the Church from all prophanation, and delivered the Kingdom from the Tyranny of *Athaliah*. But if the Princes, and Magistrates, approve the courses of an outragious and irreligious Prince, or if they do not resist him, we must lend our Ears to the Council of Jesus Christ, to wit, retire our selves into some other place; we have the example of the faithful mixed among the ten Tribes of *Israel*, who seing the true service of God abolished by *Jeroboam*, and that none made any accompt of it, they retired themselves into the territories of *Judah*, where Religion remained in her purity: let us rather

1 *Cor.* 3. 17. and 6. 19.

Ephes. 6. 17.

Mat. 10. 23.

forsake our livelyhoods and lives, then God, let us rather be Crucified our selves, then Crucifie the Lord of Life: fear not them (saith the Lord) which can only kill the Body. He himself, his *Apostels*, and an infinit Number of Christian Martyrs, have taught us this by their examples; shall it not then be permitted to any private person to resist by Arms? what shall we say of *Moses*, which lead *Israel* away in despite of King *Pharaoh*? And of *Ehud*, which after ten Years servitude, when *Israel* might seem to belong by right of prescription, to him which held the possession thereof, he killed *Eglon*, the King of *Moab*, and delivered *Israel* from the Yoak of the *Moabites*, and of *Jehu*, which put to death his Lord the King *Joram*, extirpated the race of *Ahab*, and distroyed the Priests of *Baal*, were not these particulars? I answer, that if they be considered in themselves, they may well be accounted particular persons, inasmuch as they had not any ordinary vocation; But seeing that we know that they were called Extraordinarily, and that God himself hath (if we may so speak) put his Sword into their hands, be it far from us to account them particular or private persons: but rather let us esteem them by many degrees, excelling any ordinary Magistrates whatsoever. The calling of *Moses* is approved by the expres word of God, and by most evident miracles, it is said of *Ehud*, that God stirred him up to kill the Tyrant, and deliver *Israel*; for *Jehu*, he was anointed by the Commandment of the Prophet *Elisæus*, for to root out the race of *Ahab*, besides, that the principal men saluted him King, before he executed any thing. There may as much be said of all the rest, whose examples are propounded in holy Writ. But where God Almighty doth not speak with his own mouth, nor extraordinarly by his Prophets, it is there that we ought to be exceeding cautious, and to stand upon our Guards; for if any (supposing) be is inspired by the Holy Ghost, do attribute to himself the before mentioned Authority, I would intreat him to look that he be not puffed up with vain Glory, and

least he make not a God to himself of his own fancy, and Sacrifice to his own inventions, let him not then be conceived with vanity, least instead of Fruit he bring forth deluding Lies. Let the people also be advised on their parts, least in desiring to fight under the Banner of *Jesus Christ*, they run not to their own confusion to follow the Army of some *Galilean Theudas*, or of *Barcozba*: as it happened to the *Peasants* and *Anabaptists* of *Munster*, in *Germany*, in the Year 1523. I will not say, notwithstanding that the same God which to punish our offences, hath sent us in these our days, both *Pharao* and *Abab*, may not sometimes raise up extraordinary deliverances to his people: certainly his justice and his mercy continue to all Ages, firm and immutable. Now if these visible miracles appear not as in former times, we may yet at the least fall by the effects that God works miraculously in our Hearts, which is when we have our minds free from all ambition, a true and earnest zeal, a right knowledge, and conscience least being guided by the Spirit of errour or ambition, we rather make Idols of our own imaginations, then serve and worship the true and living God.

Whether it be lawfull to take Arms for Religion?

Furthermore to take away all scruple, we must necessarily answer those which esteem, or else would, that others should think they hold that opinion, that the Church ought not to be defended by Arms. They say with all that, it was not without a great Mistery, that God did forbid in the Law, that the Altar should be made or adorned with the help of any Tool of Iron; in like manner, that at the building of the Temple of *Salomon*, there was not heard any noise Axe or Hammer, or other Tools of Iron; from whence they Collect the Church, which is the lively Temple of the Lord, ought not to be reformed by Arms, yea as if the Stones of the Altar, and of the Temple, were hewed and taken out of the quarries without any instrument of

from which the Text of the Holy Scripture doth sufficiently clear. But if we oppose to this goodly Allegory, that which is written in the fourth Chapter of the Book of *Nehemiah*, that one part of the people carried mortar, and another part stood ready with their weapons, that some held in one hand their swords, and with the other carried the Materials to the workmen, for the rebuilding of the Temple; to the end, by this means to prevent their Enemies from ruining their Work; we say also, that the Church is neither advanced, nor edified by these material weapons; but by these arms it is warranted, and preserved from the violence of the enemies, which will not by any means endure the encrease of it. Briefly, there hath been an infinite number of good Kings and Princes (as Histories do testifie) which by Arms have maintained and defended the service of God against Pagans. They reply readily to this, that Wars in this manner were allowable under the Law; but since the time that Grace hath been offered by Jesus Christ, who would not enter into *Jerusalem* mounted on a brave Horse; but meekly sitting on an Ass; this manner of proceeding hath had an end. I answer first, that all agree with me in this, that our Saviour Christ during all the time that he conversed in this world, took not on him the Office of a Judge or King; but rather of a private Person, and a Delinquent by imputation of our transgressions; so that it is an Allegation besides the purpose, to say that he hath not managed Arms. But I would willingly demand of such Exceptionists; whether that they think by the coming of Jesus Christ in the flesh, that Magistrates have lost their right in the Sword of Authority? If they say so, *St. Paul* contradicts them, who says that the Magistrates carrys not the Sword in vain, and did not refuse their assistance and power against the violence of those which had conspired his death. And if they consent to the saying of the Apostle, to what purpose should the Magistrates bear the Sword, if it be not to serve God, who hath committed it to them, to defend the good, and punish the bad? Can they do better

Rom. 13. 4. *Act* 23. 17.

service

service than to preserve the Church from the violence of the wicked, and so deliver the flock of Christ, from the swords of murtherers? I would demand of them yet, whether they think that all use of Arms is forbidden to Christians? If this be their opinion, then would I desire of them, wherefore Christ did grant to the Centurion his request? wherefore did he give so excellent a testimony of him? wherefore doth *St. John* Baptist command the Men at Arms to content themselves with their pay, and not to use any extortion, and doth not rather perswade them to leave their calling? Wherefore did *St. Peter* baptize *Cornelius* the Centurian, who was the first-fruits of the *Gentiles*? From whence comes it that he did not in any sort whatsoever counsel him to leave his charge? Now if to bear arms and to make War be a thing lawful, can there possibly be found any War more just, than that which is taken in hand by the command of the Superiour, for the defence of the Church, and the preservation of the faithful? Is there any greater tyranny, than that which is exercis'd over the Soul? Can there be imagined a War more commendable than that which suppresseth such a Tyranny? For the last point, I would willingly know of these Men, whether it be absolutely prohibited Christians, to make War upon any occasion whatsoever? If they say, that it is forbidden them, from whence comes it then that the Men at Arms, Captains and Centurions, which had no other employment, but the managing of Arms were always received into the Church? wherefore do the ancient Fathers, and Christian Historians make so horrible mention of certain Legions composed wholly of Christian Souldiers, and amongst others of that of *Malta*, so renowned for the victory which they obtained, and of that of *Thebes*, of the which *St. Maurice* was General, who suffered Martyrdom together with all his Troops, for the confessing the Name of Jesus Christ? And if it be permitted to make War (as it may be they will confess) to keep the Limits and Towns of a Country, and to repulse an invading Enemy: Is it not yet a thing much

Matt. 8. 9 13.
Luc. 3. 14.
Act. 10. 47.

more

more reasonable to take Arms to preserve and defend honest Men, to suppress the wicked, and to keep and defend the limits and bounds of the Church, which is the Kingdom of Jesus Christ? If it were otherwise, to what purpose should St. *John* have foretold, that the Whore of *Babylon* shall be finally ruined by the ten Kings whom she hath bewitched? Furthermore, if we hold a contrary opinion, what shall we say of the Wars of *Constantine*, against *Maxentius*, and *Licinius*, celebrated by so many publick orations, and approved by the Testimony of an infinite number of Learned Men, what opinion should we hold of the many Voyages made by Christian Princes, against the *Turks* and *Saracins* to Conquer the Holy Land, who had not, or at the least, ought not to have had, any other end in their designs, but to hinder the enemy from ruining the Temple of the Land, and to restore the integrity of his service into those Countries. Although then that the Church be not increased by Arms, notwithstanding it may be justly preserved by the means of Arms. I say further, that those that dye in so holy a War, are no less the Martyrs of Jesus Christ, then their brethren which were put to death for Religion; nay, they which dye in that War seem to have this inadvantage, that with a free will and knowing sufficiently hazard, into which they cast themselves, notwithstanding, do courageously expose their lives to death and danger, whereas the other do only not refuse death, when it behoveth them to suffer. The *Turks* strive to advance their opinion by the means of Arms, and if they do subdue a Country, they presently bring in by force the impieties of *Mahomet*, who in his *Alcoran*, hath so recommended Arms, as they are not ashamed to say it is the ready way to Heaven, yet do the *Turks* constrain no man in matter of Conscience. But he which is a much greater Adversary to Christ and true Religion, with all those Kings whom he hath inchanted, opposeth Fire and Fagots, to the light of the Gospel, tortures the word of God, compelling by wracking, and torments, as much as in him, lieth, Apoc. 27. 26.

lieth all men to become Idolaters, and finally is not ashamed, to advance and maintain their Faith and Law by perfidious disloyalty, and their traditions by continual Treasons. Now on the contrary, those good Princes and Magistrates, are said properly to defend themselves, which environe and fortifie by all their means and industry the vine of Christ, already planted, to be planted in places where it hath not yet been, least the wild Boor of the Forest should spoil or devour it: They do this (I say) in covering with their Buckler, and defending with their sword, those which by the preaching of the Gospel have been converted to true Religion, and in fortifying with their best ability, by Ravelins, Ditches, and Rampers the Temple of God built with lively stones, until it have attained the full height, in despite of all the furious assaults of the enemies thereof, we have lengthened out this discourse thus far to the end, we might take away all scruple concerning this question. Set then the Estates, and all the Officers of a Kingdom, or the greatest part of them, every one established in authority by the people: know, that if they contain not within his bounds (or at the least, imploy not the utmost of their endeavours thereto) a King that seeks to corrupt the Law of God, or hinders the reestablishment thereof, that they offend grievously against the Lord, with whom they have contracted Covenants upon those conditions: Those of a Town, or of a Province, making a portion of a Kingdom, let them know also, that they draw upon themselves the judgment of God, if they drive not impiety out of their Walls and Confins, if the King seek to bring it in, or if they be wanting to preserve by all means, the pure Doctrin of the Gospel, although for the defence thereof, they suffer for a time banishment, or any other misery. Finally, more private men must be all advertised, that nothing can excuse them, if they obey any in that which offends God, and that yet they have no Right nor Warrant, neither may in any sort by their private authority take Arms, if it appear not most evidently, that they have extraordinary vocation thereunto, all which our discourse will suppose we have confirmed by pregnant Testimonies drawn from holy writ.

THE

The Third QUESTION.

Whether it be lawful to resist a Prince which doth oppress or Ruin a Publick State, and how far such resistance may be extended, by whom, how, and by what Right, or Law it is permitted.

FOR so much as we must here dispute of the lawful Authority of a lawful Prince, I am confident that this Question will be the less acceptable to Tyrants, and wicked Princes; for it is no marvel if those which receive no Law, but what their own Will, and Fancy dictates unto them, be deaf unto the voyce of that Law which is grounded upon Reason. But I perswade my self that good Princes will willingly entertain this Discourse, inasmuch as they sufficiently know that all Magistrates, be they of never so high a Rank, are but an inanimated and speaking Law, neither though any thing be prefled home against the bad, can it fall within any inference against the good Kings, or Princes as also good and bad Princes are in a direct Diameter opposite and contrary: therefore that which shall be urged against Tyrants, is so far from detracting any thing from Kings, as on the contrary, the more Tyrants are laid open in their proper Colours, the more Glorious doth the true Worth, and Dignity of Kings appear; neither can the vitious imperfections of the one be laid open but it gives Addition of perfections, and respect to the Honour of the other. But for Tyrants let them fly and think what they please, that shall be the least of my Care; for it is not to them, but against them that I write; for Kings I believe that they will readily Consent to that which is propounded, for by true proportion of Reason they ought as much to hate Tyrants and wicked Governors, as Shepherds hate Wolves, Physicians

ans, Imprisoners, true Prophets, false Doctors, for it must necessarily occur that Reason infuseth into good Kings as much hatred against Tyrants, as Nature imprinteth in Dogs against Wolves, for as the one lives by Rapine and spoyl, so the other is born or bred to redress and prevent all such Outrages. It may be the Flatterers of Tyrants will cast a supercilious Aspect on these Lines, but if they were not past all Grace they would rather blush for shame. I very well know that the Friends and faithful Servants of Kings will not only approve and lovingly entertain this Discourse, but also with their best Abilities defend the Contents thereof accordingly as the Reader shall find himself moved either with Content or dislike in the reading hereof, let him know that by that he shall plainly discover either the affection, or hatred that he bears to Tyrants, let us now enter into the matter.

Kings are made by the People.

We have shewed before that it is God, that doth appoint Kings, which chuseth them, which gives the Kingdom to them; now we say that the People establish Kings, putteth the Scepter into their hands, and which with their Suffrages, approveth the Election. God would have it done in this manner, to the end, that the Kings should acknowledge, that after God they hold their power and Sovereignty from the people, and that it might the rather induce them, to apply and Address the whole of their care and thoughts for the profit of the people, without being puffed with any vain imaginations, that they were formed of any matter more excellent than other Men; for which they were raised so high above others: as if they were to Command our flocks of sheep, or herds of Cattel; but let them remember and know, that they are of the same Mould and Condition as others, raised from the Earth by the voice and Acclamations, now as it were upon the shoulders of the people unto their Thrones, that they might afterwards bear on their own shoulders the greatest burdens of the Commonwealth. Divers Ages before that the people of Israel demanded a King, God gave and appointed the Law of Royal Government contained

contained in the 17. Chapter Verse 14. of *Deut.* when says *Moses*, thou art come unto the Land which the Lord thy God giveth thee, and shalt possess it, and shalt dwell therein, and shalt say, I will set a King over me like as all the Nations that are about me, thou shalt in any wise set him whom the Lord thy God shall chuse from amongst thy Brethren, &c. You see here, that the Election of the King is attributed to God, the establishment to the people: now when the practice of this Law came in use, see in what manner they proceeded. The Elders of *Israel* which presented the whole Body of the people, (under this name of Elders, are comprehended the Captains, the Centurions, Commanders over fifties and tens, Judges, Provosts; but principally the chiefest of Tribes) came to meet *Samuel* in *Ramah*, and not being willing longer to endure the Government of the Sons of *Samuel*, whose ill Carriage had justly drawn on them the peoples dislike, and withal perswading themselves that they had found the means to make their Wars hereafter with more advantage, they demanded a King of *Samuel*, who asking Councel of the Lord, he made known that he had chosen *Saul* for the Governor of his people. Then *Samuel* anointed *Saul*, and performed all those Rights which belong to the Election of a King required by the people. Now this might perhaps have seemed sufficient, if *Samuel* had presented to the people the King that was chosen by God, and had admonished them all to become good and obedient Subjects. Notwithstanding to the end, that the King might know that he was established by the people, *Samuel* appointed the Estates to meet at *Mispah*, where being assembled as if the business were but then to begin, and nothing had already been done, to be brief as if the Election of *Saul* were then only to be treated of, the Lot is cast and falls on the Tribe of *Benjamin*, after on the Family of *Matri*, and lastly on *Saul*, born of that Family who was the same that God had chosen: Then by the Consent of all the people *Saul* was declared King. Finally, that *Saul* nor any other might attribute the aforesaid business to chance or Lot, after that *Saul* had made some proof of his Valour in raising the siege of the *Ammonites* in *Jabish Gilead*: some of the people pressing the

1 *Sam.* 8. 5.

1 *Sam.* 9. 16.

1 *Sam.* 20. 18. &c.

the business he was again confirmed King in a full assembly at *Gilgal*; yet see that he whom God had chosen, and the Lot had separated from all the rest, is established King by the Suffrages of the People.

And for *David*, by the Commandment of God, and in a manner more evident then the former, after the rejection of *Saul*, *Samuel* anointed for King over *Israel*, *David* chosen by the Lord, which being done, the Spirit of the Lord presently left *Saul*, and wrought in a special manner in *David*. But *David* notwithstanding Reigns not, but was compelled to save himself in Desarts and Rocks, oftentimes falling upon the very brim of destruction, and never Reigned as King till after the Death of *Saul*: for then by the Suffrages of all the People of *Judah* he was first chosen King of *Judah*, and seven years after by the Consent of all *Israel*, he was inaugurated King of *Israel* in *Hebron*. So then he is annointed first by the Prophet at the Commandment of God, as a Token he was chosen. Secondly by the Commandment of the People when he was established King. And that to the end that Kings may always remember that it is from God, but by the People, and for the Peoples sake that they do Raign, and that in their Glory they lay not (as is their Custom) they hold their Kingdom only of God and their Sword, but withal add that it was the People which first gave them with that Sword. The same Order observed in *Solomon*, although he was the Kings Son, God hath chosen *Solomon*, to sit upon the Throne of his Kingdom, and by expresse words had promised *David* to be with him and assist him as a Father his Son. *David* had with his own mouth designed *Solomon* to be Successor to his Crown in the Presence of some of the principal of his Court. But this was not enough and therefore *David* assembled at *Jerusalem* the Princes of *Israel*, the heads of the Tribes the Captains of the Souldiers and Ordinance Officers of the Kings, the Centurions and other Magistrates of Towns together with his Sons, the noble Men and worthiest Personages of the Kingdom, to consult and resolve upon the Election. In this Assembly after they had called upon the Name of God, *Solomon* by the Consent of the whole Congregation proclaimed and anointed for King,

and sit (so saith the Text) upon the Throne of *Israel*; then and not before the Princes the Noblemen his Brothers themselves do him Homage, and take the Oath of Allegiance. And to the end, that it may not be said, that that was only done to avoid occasion of Difference, which might arise amongst the Brothers and Sons of *David* about the Succession, we read that the other following Kings have in the same manner been established in their Places, it is said, that after the Death of *Solomon*, the People assembled to create his Son *Rehoboam* King. After that *Amaziah* was killed, *Ozias* his only Son was chosen King by all the People, *Ozias* after *Joram*, *Joachim*, the Son of *Josias*, after the Disease of his Father, whose piety might well seem to require that without any other Solemnity, notwithstanding both he and the other were chosen and invested into the Royal Throne, by the Suffrages of the People. To which also belongs, that which *Husbai* said to *Absalom*; nay, but whom the Lord and his People, and all the Men of *Israel* chuse, his will I be, and with him will I abide; which is as much as to say, I will follow the King lawfully established, and according to the accustomed order; wherefore, although that God had promised to his People a perpetual Lamp, to wit, a King, and a continual Successor of the Line of *David*, and that the Successor of the Kings of this *People* were approved by the Word of God himself. Notwithstanding, since that we see that the Kings have not reigned, before the *People* had ordained and installed them, with requisite Ceremonies; it may be collected from this, that the Kingdom of *Israel* was not Hereditary, if we consider *David* and the promise made to him, and that it was wholly Elective, if we regard the particular *Persons*. But to what purpose is this, but to make it apparent, that the Election is only mentioned, that the *Kings* might have always in their Remembrance, that they were raised to their Dignities by the *People*, and therefore they should never forget during Life, in what a strict bound of Observance they are tied to those from whom they have received all their Greatness. We read that the *Kings* of the Heathen have been established also by the *People*; for as when they had either Troubles at

2 Sam. 16. 18.

Psal 132. 11. 42.

Home,

Home, or Wars Abroad, some one, in whose steady Valour, and discreet Integrity, the *People* did principally rely and repose their greatest Confidence, him they presently with an universal Consent constituted *King*. *Cyrus* saith, that amongst the *Medes*, *Deiaces*, from a Judge of private Controversies, was for his Uprightness, by the whole *People* elected *King*, and in the same manner were the first *Kings* chosen amongst the *Romans*. Insomuch, that after the Death of *Romulus*, the Interreign and Government of the hundred Senators being little acceptable to the *Quirites*, it was agreed that from thence forward the *King* should be chosen by the Suffrages of the *People*, and the Approbation of the Senate. *Tarquinius Superbus* was therefore esteemed a Tyrant, because being chosen neither by the *People* nor the Senate, he intruded himself into the *Kingdom* only by Force and Usurpation. Wherefore *Julius Cæsar* long after, though he gained the Empire by the Sword, yet to the end he might add some shadow or pretence of Right to his former Intrusion, he caused himself to be declared both by the *People* and Senate perpetual Dictator. *Augustus* his adopted Son, would never take on him as Inheritor of the Empire, although he were declared so by the Testaments of *Cæsar*, but always held it as of the People and Senate. The same also did *Tiberius*, *Caligula* and *Claudius*, and the first that assumed the Empire to himself, without any colour of Right, was *Nero*, who also by the Senate was condemned. Briefly, for so much as none were ever born with Crowns on their Heads, and Scepters in their Hands, and that no Man can be a King by himself, nor reign without People; whereas on the contrary, the People may subsist of themselves, and were long before they had any Kings, it must of necessity follow, that Kings were at the first constituted by the People; and although the Sons and Dependants of such Kings inheriting their Fathers Vertues, may in a sort seem to have rendered their Kingdoms Hereditary to their Off-springs, and that in some Kingdoms and Countreys, the Right of free Election seems in a sort buried; yet notwithstanding, in all well ordered Kingdoms, this Custom is yet remaining, the Sons do not succeed the Fathers, before the People have first as it were anew established them

them by their new Approbation; neither were they acknowledged in Quality, as inheriting it from the Dead, but approved and accounted Kings then only, when they were invested with the Kingdom, by receiving the Scepter and Diadem from the Hands of those who represent the Majesty of the People. One may see most evident Marks of this in Christian Kingdoms, which are at this day esteemed Hereditary; for the *French* King, he of *Spain* and *England*, and others, are commonly Sacred, and as it were, put into Possession of their Authority by the Peers, Lords of the Kingdom, and Officers of the Crown, which represent the Body of the People; no more nor less than the Emperors of *Germany* are chosen by the Electors, and the Kings of *Poland*, by the Vawodes and Palatines of the Kingdom, where the Right of Election is yet in force. In like manner also, the Cities give no Royal Reception, nor Entries unto the King, but after their Inauguration, and anciently they used not to count the times of their Reign, but from the day of their Coronation, the which was strictly observed in *France*. But least the continued Course of some Successions should deceive us, we must take notice, that the Estates of the Kingdoms have often preferred the Cousin before the Son, the Younger Brother before the Elder, as in *France*, *Louis* was preferred before his Brother *Robert*, Earl of *Evreux*, [*Annales Gallic*] in like manner *Henry* before *Robert*, Nephew to *Capet*. Nay, which is more by Authority of the People in the same Kingdom, the Crown hath been transported (the lawful Inheritors living) from one Lineage to another, as from that of *Merove* to that of the *Charlemains*, and from that of the *Charlemains*, to that of *Capet*, the which hath also been done in other Kingdoms, as the best Historians testifie. But not to wander from *France*, the long Continuance and Power of which Kingdom may in some sort plead for a ruling Authority, and where Succession seems to have obtained most reputation. We read that *Pharamond* was chosen in the Year 419. *Pepin* in the Year 751. *Charles* the Great, and *Charleman* the Son of *Pepin* in the Year 768. without having any respect to their Fathers former Estate. *Charleman* dying in the Year 772. his Portion fell not presently into the

Possession

Poſſeſſion of his Brother *Charles* the Great, as it ordinarily happens in the Succeſſion of Inheritances, but by the Ordinance of the People and the Eſtates of the Kingdom he is inveſted with it; the ſame Author witneſſeth, that in the Year 813. *Lewis* the Courteous, although he were the Son of *Charles* the Great was alſo elected, and in the Teſtament of *Charlemain*, inſerted into the Hiſtory written by *Nauclerus*, *Charlemain* doth intreat the People to chuſe, by a General Aſſembly of the Eſtates of the Kingdom, which of his Grand-children or Nephews the People pleaſed, and commanding the Uncles to obſerve and obey the Ordinance of the People, by means whereof, *Charles* the Bald, Nephew to *Lewis* the Courteous and *Judith*, doth declare himſelf to be choſen King, as *Aimonius* the *French* Hiſtorian recites.

To conclude in a Word, all Kings at the firſt were altogether elected, and thoſe which at this day ſeem to have their Crowns and Royal Authority by Inheritance, have or ſhould have firſt and principally their Confirmation from the People. Briefly, although the People of ſome Countries have been accuſtomed to chuſe their Kings of ſuch a Lineage, which for ſome notable Merits have worthily deſerved it; yet we muſt believe that they chuſe the Stock it ſelf, and not every Branch that proceeds from it; neither are they ſo tied to that Election, as if the Succeſſor degenerate, they may not chuſe another more worthy, neither thoſe which come and are the next of that Stock, are born Kings, but created ſuch, nor called Kings, but Princes of the Blood Royal.

The whole Body of the People is above the King.

Now ſeeing that the People chuſe and eſtabliſh their Kings, it followeth that the whole Body of the People is above the King; for it is a thing moſt evident, that he which is eſtabliſhed by another, is accounted under him that hath eſtabliſhed him, and he which receives his Authority from another, is leſs than he from whom he derives his Power. *Pompbar* the *Egyptian* ſetteth *Joſeph* over all his Houſe, *Nebuchadnezzar Daniel* over the Province of *Babylon*, *Darius* the

ſixſcore

sixscore Governors over the Kingdom. It is commonly said that Masters establish their Servants, Kings their Officers. In like manner also the People establish the King as Administrator of the *Common-wealth*. Good Kings have not disdained this Title; yea, the bad ones themselves have affected it; insomuch, as for the space of divers Ages, no *Roman* Emperor (if it were not some absolute Tyrant, as *Nero*, *Domitian*, *Caligula*) would suffer himself to be called Lord. Furthermore, it must necessarily be, that Kings were instituted for the Peoples Sake, neither can it be, *that for the Pleasure of some hundreds of men, and without doubt more foolish and worse than many of the other, all the rest were made, but much rather that those hundred were made for the Use and Service of all the other, and reason requires that he be preferred above the other, who was made only to and for his Occasion*: so it is, that for the Ships Sail, the Owner appoints a Pilot over her, who sits at the Helm, and looks that she keeps her Course, nor run not upon any dangerous Shelf; the Pilot doing his Duty, is obeyed by the Marriners; yea, and of himself that is Owner of the Vessel, notwithstanding the Pilot is a Servant as well as the least in the Ship, from whom he only differs in this, that he serves in a better place than they do. In a Common-wealth, commonly compared to a Ship, the King holds the Place of Pilot, the People in general are Owners of the Vessel, obeying the Pilot, whilst he is careful of the publick Good; as though this Pilot neither is nor ought to be esteemed other than Servant to the Publick; as a Judge or General in War differs little from other Officers, but that he is bound to bear greater Burdens, and expose himself to more Dangers. By the same reason also which the King gains by acquist of Arms, be it that he possesseth himself of Frontier places in warring on the Enemy, or that which he gets by Escheats or Confiscations, he gets it to the *Kingdom*, and not to himself, to wit, to the *People*, of whom the *Kingdom* is composed; no more nor less than the Servant doth for his Master; neither may one contract or oblige themselves to him, but by and with reference to the Authority derived from the *People*. Furthermore, there is an infinite sort of *People*

which live without a *King*, but we cannot imagine a *King* without *People*. And those which have been raised to the Royal Dignity, were not advanced because they excelled other Men in Beauty and Comelineſs, nor in ſome Excellency of Nature to govern them as Shepherds do their Flocks, but rather being made out of the ſame Maſs with the reſt of the People, they ſhould acknowledge that for them, they as it were borrow their Power and Authority. The ancient Cuſtom of the *French* repreſents that exceeding well, for they uſed to lift up on a Buckler, and ſalute him King whom they had choſen. And wherefore is it ſaid, *I pray you, that Kings have an infinite number of Eyes, a million of Ears, with extream long Hands, and Feet exceeding Swift?* Is it becauſe they are like to *Argus*, *Gerion*, *Midas*, and divers others ſo celebrated by the Poets; No truly, but it is ſaid in regard of all the People, whom the buſineſs principally concerns, who lend to the King for the good of the Common-wealth, their Eys, their Ears, their Means, their Faculties. Let the *People* forſake the King, he preſently falls to the Ground, although before his Hearing and Sight ſeemed moſt excellent, and that he was ſtrong and in the beſt Diſpoſition that might be; yea, that he ſeemed to triumph in all magnificence, yet in an inſtant he will become moſt vile and contemptible, to be brief, inſtead of thoſe Divine Honours wherewith all men adore him, he ſhall be compelled to become a Pedant, and whip Children in the School at *Corinth*. Take away but the Baſis to this Giant, and like the Rhodian Coloſs, he preſently tumbles on the ground and falls into pieces. Seeing then that the King is eſtabliſhed in this degree by the *People*, and for their Sake, and that he cannot ſubſiſt without them, who can think it ſtrange then for us to conclude, that the *People* are above the King? Now that which we ſpeak of all the *People* univerſally, ought alſo to be underſtood, as hath been delivered in the ſecond Queſtion, of thoſe which in every Kingdom or Town do lawfully repreſent the Body of the *People*, and which ordinarily (or at leaſt ſhould be) called the Officers of the Kingdom, or of the Crown, and not of the King; for the Officers of the King, it is he which placeth and diſplaceth them

them at his pleasure, yea, after his Death they have no more power, and are accounted as dead. On the contrary, the Officers of the Kingdom *receive their Authority from the People in the general Assembly of the States (or at the least were accustomed so anciently to have done) and cannot be disauthorised but by them, so then the one depends of the King, the other of the Kingdom, those of the Soveraign Officer of the Kingdom, which is the King himself, those of the Soveraignty it self, that is of the People, of which Soveraignty, both the King and all his Officers of the Kingdom ought to depend, the Charge of the one hath proper relation to the Care of the Kings Person; that of the other, to look that the Common-wealth receive no Damage; the first ought to serve and assist the King, as all Domestick Servants are bound to do to their Masters; the other to preserve the Rights and Priviledges of the People, and to carefully hinder the Prince, that he neither omit the things that may advantage the State, nor commit any thing that may endammage the Publick.*

Briefly, the one are Servants and Domesticks of the Kings, and received into their places to obey his Person; the other, on the contrary, are as Associates to the King, in the Administration of Justice, participating of the Royal Power and Authority, being bound to the utmost of their power, to be assisting in the managing of the Affairs of State, as well as the King, who is as it were President amongst them, and Principal only in order and degree.

Therefore, as all the whole People is above the King, not likewise taken in one entire Body, are in Authority before him; yet being considered one by one, they are all of them under the King. It is ease to know how far the Power of the first Kings extended, in that *Ephron*, King of the *Hittites*, could not grant *Abraham* the Sepulchre, but in the Presence, and with the Consent of the *People*; neither could *Hemor* the *Hivite*, King of *Sichem*, contract an Alliance with *Jacob* without the *Peoples* Assent and Confirmation thereof; because it was then the Custom to refer the most important Affairs to be dispensed and resolved in the General Assemblies of the *People*. This might easily be practised in those Kings

Gen. 34.

dom, which were then almost confined within the Circuit of one Town.

But since that Kings began to extend their limits, and that it was impossible for the People to assemble together all into one place because of their great numbers, which would have occasioned confusion, the Officers of the Kingdom were established, which should ordinarily preserve the rights of the People, in such sort notwithstanding, as when extraordinary occasion required, the People might be assembled, or at the least such an abridgment as might by the principallest Members be a Representation of the whole Body. We see this order established in the Kingdom of *Israel*, which (in the judgment of the wisest Politicians) was excellently ordered. The King had his Cupbearers, his Carvers, his Chamberlains and Stewards. The Kingdom had her Officers, *to wit*, the 71. Elders, and the Heads and chief chosen out of all the Tribes, which had the care of the Publick Faith in Peace and War.

Furthermore, the Kingdom had in every Town Magistrates, which had the particular government of them, as the former were for the whole Kingdom. At such times as affairs of consequence were to be treated of, they assembled together, but nothing that concerned the publick state could receive any solid determination. *David* assembled the Officers of his Kingdom when he desired to invest his Son *Solomon* with the Royal Dignity; when he would have examined and approved that manner of policy, and managing of affairs, that he had revived and restored, and when there was no question of removing the Ark of the Covenant.

1 Chron. 29. 1.
1 Chron. 13. 1.

And because they represented the whole people, it is said in the History, that all the people assembled. These were the same Officers that delivered *Jonathan* from death, Condemned by the sentence of the King, by which it appears, that there might be an Appeal from the King to the People.

1 Sam. 14. 45.

After that the Kingdom was divided through the pride of *Roboam*, the Council at *Jerusalem* composed of 71. Ancients seems to have such Authority, that they might judge the King

King, as well as the King might judge every one of them in particular.

In this Council was Preſident the Duke of the Houſe of *Juda*, to wit, ſome principal man choſen out of that Tribe; as alſo, in the City of *Jeruſalem* there was a Governor choſen out of the Tribe of *Benjamin* reſiding there. This will appear more manifeſt by Examples, *Jeremy* was ſent by God to denounce to the *Jews* the Deſtruction of *Jeruſalem*, was therefore Condemned firſt by the Prieſts and Prophets, in whoſe hands was the Eccleſiaſtical Juriſdiction afterwards by all the people of the City; that is, by the ordinary Judges of *Jeruſalem*, to wit the Millenjers, and the Centurions? Finally, the matter being brought before the Princes of *Juda*, who were the 71. Elders aſſembled, and ſet near to the new Gate of the Temple, he was by them acquitted. 2 Chron. 19. Neh. 11. 9. Jer. 26. 9. 17.

In this very Aſſembly, they did diſcreetly Condemn, in expreſs terms, the wicked and cruel act of the King *Jehoiakim*, who a little before had cauſed the Prophet *Uriah* to be ſlain, who alſo fore-told the Deſtruction of *Jeruſalem*.

We read in another place, that *Zedechias* held in ſuch reverence the Authority of this Councel, that he was ſo far from delivering of *Jeremy* from the Dungeon, wherein the 71. had caſt him, that he durſt ſcarce remove him into a leſs rigorous priſon. They perſwading him to give his conſent to the putting to death the Prophet *Jeremy*, he anſwered, that he was in their hands, and that he might not oppoſe them in any thing. The ſame King fearing leaſt they might make Information againſt him, to bring him to an account for certain Speeches, he had uſed to the Prophet *Jeremy*, was glad to feign an untrue excuſe. It appears by this, that in the Kingdom of *Juda* this Council was above the King, in this Kingdom, I ſay not faſhioned or eſtabliſhed by *Plato* or *Ariſtotle*, but by the Lord God, himſelf being Author of all their order, and ſupream Moderator in that Monarchy. Such were the ſeven *Mags* or *Sages* in the *Perſian* Empire, who had almoſt a parallel'd Dignity with the King, and were termed the Ears and Eyes of the King, who alſo never diſſented from the judgment of thoſe Sages. Jer. 37. 38.

In the Kingdom of *Sparta* there was the *Ephori*, to whom an Appeal lay from the judgment of the King, and who, as *Aristotle* says, had Authority also to judge the Kings themselves.

In *Egypt* the *People* were accustomed to chuse and give Officers to the King, to the end they might hinder and prevent any incroachment, or usurpt Authority, contrary to the Laws. Now as *Aristotle* doth ordinarily term those lawful Kings, which have for their Assistants such Officers or Counsellors; so also maketh he no difficulty to say, that where they be wanting, there can be no true Monarchy, but rather a Tyranny absolutely barbarous, or at the least such a Dominion, as doth most nearly approach tyranny.

Arist. in pol. l. 5. c. 11.

In the *Roman* Common-wealth, such were the Senators, and the Magistrates created by the people the tribune of those which were called *Celeres*, the Preter or Provost of the City, and others, insomuch as there lay an Appeal from the King to the People, as *Seneca* declares by divers Testimonies drawn from *Cicero's* Books of the Common-wealth, and the History of *Oratius* sufficiently shews, who being Condemned by the Judges for killing his Sister, was acquitted by the people.

In the times of the Emperours, there was the Senate, the Consuls, the Pretors, the great Provosts of the Empire, the Governors of Provinces, attributed to the Senate and the People, all which were called the Magistrates and Officers of the people of *Rome*. And therefore, when that by the Decree of the Senate, the Emperor *Maximinus* was declared Enemy of the Common-wealth, and that *Maximus* and *Albinus* were created Emperours by the Senate, the men of war were sworn to be faithful and obedient to the people of *Rome*, the Senate, and the Emperors. Now for the Empires and publick States of these times (except those of *Turkey*, *Muscovy*, and such like, which are rather a Rapsody of Robbers, and Barbarous Intruders, than any lawful Empires) there is not one, which is, not, or hath not heretofore been governed in the manner we have described. And if through the conveniency and sloath of the principal Officers, the Successors have found the business in a worse condition, those which have

Herodi. l. 8.

for

for the present the publick Authority in their hands, are notwithstanding bound as much as in them lieth to reduce things into their primary estate and condition.

In the Empire of *Germany* which is conferred by Election, there is the Electors and the Princes, both Secular, and Ecclesiastical, the Counts, Barons, and Deputies of the Imperial Cities, and as all these in their proper places are Solicitors for the publick good likewise in the Diets do they represent the Majesty of the Empire, being obliged to advise, and carefully fore-see, that neither by the Emperors partiality, hate nor affection, the publick State do suffer or be interessed. And for this reason, the Empire hath its Chancellor, as well as the Emperor his, both the one and the other have their peculiar Officers and Treasurers apart. And it is a thing so notorious, that the Empire is preferred before the Emperour, that it is a common saying, *That Emperor does homage to the Empire.*

In like manner, in the Kingdom of *Polonia*, there is for Officers of the Crown, the Bishops, the Palatins, the Castellains, the Nobility, the Deputies of Towns, and Provinces assembled extraordinarily, before whom, and with whose consent, and no where else, they make new Laws, and Determinations concerning Wars. For the ordinary Government there, is the Councellors of the Kingdom, the Chancellor of the State, *&c.* although notwithstanding, the King have his Stewards, Chamberlains, Servants, and Domesticks. Now if any Man should demand in *Polonia* who were the greater, the King, or all the people of the Kingdom represented by the Lords and Magistrates, he should do as much, as if he asked at *Venice*, if the Duke were above the Seignory. But what shall we say of Kingdoms, which are said to go by Hereditary Succession? We may indeed conclude the very same, The Kingdom of *France* heretofore preferred before all other, both in regard of the excellency of their Laws and Majesty of their Estate, may pass with most as a ruling case. Now although that those which have the publick Commands in their hands, do not discharge their Duties as were to be desired, it follows not though, that they are not bound to do it. The King hath his High Steward of his Houshold, his Chamberlains,

Speculum saxonicum.

Almonius. l. 5. c. 26. in Carolo calvo.

berlains, his Masters of his Games, Cup-bearers, and others, whose Offices were wont so to depend on the person of the King, that after the death of their Master, their offices were void. And indeed at the Funeral of the King, the Lord High Steward in the presence of all the Officers and Servants of the Houshold, breaks his Staff of Office, and says, *Our Master is dead let every one provide for himself.* On the other side, the Kingdom hath her Officers, to wit, the Mayor of the Palace, which since hath been called the Constable, the Marshals, the Admiral, the Chancellor, or great Referendary, the Secretaries, the Treasurers and others, which heretofore were created in the Assembly of the three Estates, the Clergy, the Nobility, and the People.

Since that, the Parliament of *Paris* was made Sedentary, they are not thought to be established in their places, before they have been first received and approved by that course of Parliament, and may not be dismissed nor deposed, but by the Authority and consent of the same. Now all these Officers take their Oath to the Kingdom, which is as much as to say, to the people in the first place, then to the King which is Protector of the Kingdom, the which appears by the Tenor of the Oath. Above all, the Constable who receiving the Sword from the King, hath it girded unto him with this Charge, *That he maintain and defend the Common-wealth*, as appears by the words that the King then pronounceth:

S. Filius fam. instit. quib. mod. jus patriæ pot. solvitur.

Besides, the Kingdom of *France* hath the Peers (so called either for that they are the Kings Companions, or because they are the Fathers of the Common-wealth) taking their Denominations from the several Provinces of the Kingdom, in whose hands the King at his Inauguration takes his Oath, as if all the people of the Kingdom were in them present, which shews, that these twelve Peers are above the King. They on the other side swear, *That they will preserve not the King, but the Crown, that they will assist the Common-wealth with their Council, and therefore will be present with their best Abilities to counsel the Prince both in Peace and War*, as appears plainly in the *Patents* of their Peership.

And

And they therefore have the same right as the Peers of the Court, which according to the Law of the *Lombards*, were not only associates to the Lord of [illegible] causes, but also did take an account, and judge the differences that happened between the Lord and his Vassals. Renatus Chopinus lib. 3.

We may also know, that those Peers of *France* [illegible] and differences between the King and his Subjects [illegible] which [illegible] the King would have given [illegible] *Parliament* [illegible] allowing that the [illegible] not belonged properly to the Peers and not to the [illegible] not in any sort derogate from their authority.

Therefore it is, that yet at this day the Parliament of *France* is called the Court of Peers, being in some sort a [illegible] judge between the King and the People [illegible] private Person, and is bound and ought to [illegible] the Kingdom against the Kings Attorney, if he undertake any thing contrary to Law.

Furthermore, if the King orders any thing in his Council, if he treat any agreement with the Princes his Neighbours, if he begin a War, or make peace, as laws, with *Charles* the Emperour, the Parliament ought to interpose their authority, and all those which concern the publick State must be therein registred, whether it be any thing firm and stable which the Parliament doth not first approve. And to the end, that the Councellours of that Parliament should not fear the King, formerly they assumed [illegible] the nomination of the whole body of the Court [illegible] should they be dismissed for any lawful cause, but by the authority of the said Body.

Furthermore, if the Letters of the King be not subscribed by a Secretary of the *Kingdom*, at this day called a Secretary of State, and if the Letters Patents be not sealed by the Chancellour, [illegible] to cancel them, they are of no force or value. There is also [illegible] Marquesses, Earls, Viconts, Barons, Seneschals, and in the Cities and Towns Mayors, Bayliffs, Lieutenants, Capitals, Consuls, Sendiques, Sheriffs and others which have special Authority throughout the Circuit of some Countries or Towns to preserve the people of their jurisdiction. These it is that at this day some of these dignities are become hereditary. Thus much concerning the ordinary Magistrates.

The Assembly of the three Estates.

Besides all this, anciently every year, and since less often, *to wit*, when some urgent necessity required it, the general or three Estates were assembled, where all the Provinces and Towns of any worth, *to wit*, the Burgesses, Nobles and Ecclesiastical persons, did all of them send their Deputies, and there they did publickly deliberate and conclude of that which concerned the publick state. Always the Authority of this Assembly was such that what was there determined, whether it were to treat Peace, or make War, or create a Regent in the *Kingdom*, or impose some new Tribute, it was ever held firm and inviolable; nay, which is more by the authority of this Assembly, the *Kings* convinced of loose intemperancy, or of insufficiency, for so great a charge or Tyranny, were dismantled, yea, their whole Races were for ever excluded from their succession to the *Kingdom*, no more, nor less, as their Progenitors were by the same authority formerly call'd to the administration of the same *Kingdom*. Those whom the consent and approbation of the Estates had formerly raised, were by the dissent and disallowing of the same afterwards cast down. Those which tracing in the vertuous steps of their Ancestors, were called to that dignity, as if it had been their inheritance, were driven out, and disinherited for their degenerate ingratitude, and for that being tainted with insupportable vices, they made themselves unapable and unworthy of such honour.

This shews, that Succession was tollerated to avoid practises, close and under-hand canvassing, discontents of persons refused, contentions, interraigns, and other discommodities of Elections. But on the other part, when Successions brought other mischiefs more pernicious, when tyranny trampled on the *Kingdom*, and when a Tyrant possessed himself of the Royal Throne, the Medicine proving much worse then the Disease then the Estates of the *Kingdom* lawfully assembled in the name of all the people, have ever maintained their Authority, whether it were to drive out a Tyrant, or other unworthy *King*, or to establish a good one in his place. The ancient *French* had learned that of the *Gauls*, as *Cæsar* shews in his Commentaries. For *Ambiorix* King of the *Eburons*, or *Leigeons* confesseth, *That such were the condition of the Gaulish Empire, that People lawfully assembled, had no less power over the King, then the King had over the People.* The which appears also in *Vircingentorix*,

Cæs. l. 5. & 7. de bello Gallico.

turx, who gives an account of his actions before the Assembly of the People.

In the Kingdoms of *Spain*, especially *Aragon*, *Valentia*, and *Catalonia* there is the very same. For that which is called the *Justitia Major* in *Aragon* hath the Soveraign Authority in it self. And therefore the Lords which represent the People proceed so far, that both at the inauguration of the King, as also at the Assembly of the Estates which is observed every third year, to say to the King in express words that which follows, *We which are as much worth as you, and have more Power than you, chuse you King upon these and these conditions, and there is one between you and us which commands over you*, to wit, the Justitia Major of Aragon, *which often times refuseth that which the King demands, and forbids that which the King injoyns.*

In the Kingdoms of *England* and *Scotland* the Soveraignty seems to be in the *Parliament*, which heretofore was held almost every year. They call Parliaments the Assembly of the Estates of the Kingdom, in the which the Bishops, Earls, Barons, Deputies of Towns and Provinces deliver their opinions, and resolve with a joynt consent of the Affairs of State, the authority of this Assembly hath been so sacred and inviolable, that the King durst not abrogate or alter that which had been there once decreed.

It was that which heretofore called and installed in their charges all the chief Officers of the Kingdom; yes, and sometimes the ordinary Councellors of that which they call the Kings Privy Councils in some, the other Christian Kingdoms, as *Hungary*, *Bohemia*, *Denmark*, *Sweden*, and the rest, they have their Officers apart from the Kings; and Histories, together with the examples that we have in these our times, sufficiently demonstrate that these Officers and Estates have known how to make use of their Authority, even to the deposing and driving out of the tyrannous and unworthy Kings.

We must not therefore esteem that this cuts too short the wings of Royal Authority, and that it is as much as to take the Kings head from his shoulders.

We believe that God is Almighty, neither think we it any thing diminisheth his power, because he cannot sin: neither say we, *that his Empire is less to be esteemed, because it cannot be neither shaken, nor cast down*: neither also must we judge a King to be too much abused, if he be with-held by others from falling into an error, to which he is over much

 inclined

inclined; or for that by the wisdom and discretion of some of his Councellors, his Kingdom is preserved and kept intire and safe, which otherwise, happily by his weakness or wickedness might have been ruined. Will you say that a Man is less healthful, because he is invisioned with discreet Physicians, which counsel him to avoid all intemperance, and forbid him to eat such Meats as are obnoxious to the Stomach, and which purge him many times against his will and when he resists; which will prove his better friends, whether these Physicians which are studiously careful of his health, or those Sicophants which are ready at every turn to give him that which must of necessity hasten his cold? We must then always observe this distinction. The first are the friends of the *King*. The other are the friends of *Francis* which is *King*. The friends of *Francis* are those which serve him: The friends of the *King* are the Officers and Servants of the Kingdom. For seeing the King hath this name, because of the Kingdom, and that he is the People, which give being and consistence to the Kingdom, the which being lost or ruined, he must needs cease to be a [illegible] not to truly a *King*, or else we must take a [illegible] those are most truly the *Kings* friends, which are most industriously careful of the welfare of his Kingdom, and those his worst Enemies which neglect the good of the Common-wealth, and seek to draw the *King* into the same lapse of Error.

And [illegible] is impossible to separate the Kingdom from the People, not the King from the Kingdom, in like manner, neither can the friends of the King be disjoyned from the friends of the People, and the Kingdom.

I say further, that those which with a true affection love *Francis*, had rather see him a King than a Subject. Now seeing they cannot see him a King, it necessarily follows that in loving *Francis*, they must also love the Kingdom.

But those which would be esteemed more the friends of *Francis*, then of the Kingdom and the People, are truly flatterers, and the most pernicious Enemies of the King and publick State.

Now, if they were true friends indeed, they would desire and endeavour that the King might become more powerful, and more affected in his Estate according to that notable saying of *Theopompus* King of *Sparta*, after the Ephores or Controllers of the Kings were instituted, *The more (said he) are appointed by the People to watch over, and look to the*

Affairs of the Kingdom, the more those that govern shall have Credit, and the more safe and happy shall be the State.

(Whether prescription of time can take away the Right of the People?

But peradventure, some one will reply, you speak to us here of Peers, of Lords and Officers of the Crown. But I for my part see not any, but only some shews and shadows of Antiquity as if they were to be represented on a Stage I see not for the present scarce any Tract of that ancient Liberty, and Authority; nay, which is worse a great part, if not all, of those Officers take care of nothing but their particular Affairs, and almost, if not altogether, serve as Flatterers about those Kings who joyntly toss the poor people like Tennice-balls: hardly is there one to be found that hath Compassion on, or will lend a helping hand to the miserable Subjects, flea'd and scorched to the very bones, by their insolent and insupportable Oppression. If any be but thought to have such a desire, they are presently condemned as Rebels and Seditious, and are constrained either to fly with much discommodity, or else must run hazard both of Life and Liberty. What can be answered to this? the business goes thus. The Outragiousness of Kings, the ignorance of the party, together with the wicked connivence of the great ones of the Kingdom, hath been for the most part such throughout the World, that the Licentious and unbridled Power wherewith most Kings are transported and which hath made them insupportable, hath in a manner by the length of Continuance gained right of Prescription, and the People for want of using it hath meaceitely quit, if not altogether just, their just and ancient Authority. So that it ordinarily happens that what all Mens care ought to attend on, is for the most part neglected by every Man; for what is committed to the generality, no Man thinks is commended to his Custody. Notwithstanding, no such Prescription nor prevarication can justly prejudice the Right of the People. It is commonly said that the Exchequers do admit no rule of Prescription against it, much less against the whole Body of the people, whose power transcends the Kings, and in whose Right the King assumes to himself that priviledge; for otherwise, wherefore is the Prince only Administrator, and the people true Proprietor of the publick Exchequer, as we will prove here presently after. Furthermore, it is not a thing resolved on by all, that no Tyrannous Intrusion or Usurpation, and continuance in the same Course, can by any length of time prescribe against lawful Liberty. If it be objected, that Kings were enthronized, and received their Authority from the people that lived

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five hundred years ago, and not by those now living. I suffer that the Commonwealth never dies, although Kings be taken out of this Life one after another; for as the continual running of the water gives the River a perpetual Being: so the Alternative revolution of Birth and death renders the People (*quoad hanc mundum*) immortal.

And further, as we have at this day the same *Laws* and *Tithes* as was 1000 years ago: in like manner also is there the same People of *Germany*, *France*, and *Italy* (excepting intermixing of Colonies, or such like) neither can the lapse of time, nor changing of individuals, alter in any sort the right of those People. Furthermore, if they say the King receives his Kingdom from his Father, and not from the People, and he from his Grandfather, and so one from another upward.

Vipan de reg. juris l. 54.

I ask, could the Grandfather or Ancestor, transfer a greater right to his Successor, than he had himself? If he could not (as without doubt it must need be so) it is most plainly perspicuous, that what the Successor further Arrogates to himself, he may usurp with as safe a Conscience, as what a Thief gets by the High way side. The People on the contrary have their Right of eviction intire and whole; although that the Officers of the Crown have for a time left or left their Places, this does not in any true Right prejudice the People, but rather clear otherwise; as one would not grant Audience, or shew favour to a Slave which had long time held his Master Prisoner, and did not only vaunt himself to be free, but also presumptuously assumed power over the life and death of his Master. Neither would any Man allow the execution of a Thief because he had continued in that Trade 30. years, or for that he had been bred in that course of life by his Father, if he perceived by his long continuance in that Function to prescribe for the lawfulness, but rather the longer he had continued in his wickedness, the more grievous should be his punishment: in like manner, the Prince is altogether unsupportable, which because he succeeds a Tyrant, or hath kept the people (by whose Suffrages he holds the Crown) in a long slavery, or hath suppressed the Officers of the Kingdom (who should be Protectors of the publick Liberty) that therefore presumes, that what he affects is lawful for him to effect, and that his Will is not to be restrained or corrected by any positive Law whatsoever. For prescription in Tyranny detracts nothing from the Right of the people; nay, it rather much aggravates the Princes Outrages. But what if the Peers and principal Officers of the Kingdom makes themselves parts with the King? What if betraying the publick, cause the Yoke of Tyranny upon the peoples Neck? shall it follow, that by this prevarication and Treason the Autho-

rity

rity is devolved into the King? Does this detract any thing from the Right of the peoples Liberty, or does it add any licentious power to the King? Let the people thank themselves, fay you, who relyed on the disloyal Loyalty of such men.

But I Answer, that those Officers are indeed those Protectors whose principal Care and Study should be, *that the People be maintained in the free and absolute Fruition of their Goods and Liberty.* And therefore, in the same manner as if a treacherous Advocate for a sum of Money should agree to betray the Cause of his Client, into the hands of his Adversary, which he ought to have defended, hath not power for all that to alter the course of Justice, nor of a bad Cause to make a good one, although perhaps for a time he give some Colour of it.

In like manner this Conspiracy of the great ones combined to ruin the Inferiors cannot disanul the Right of the people, in the mean Season, those great ones incur the punishment due to the same also against Prevaricators, and for the people, the same Law allows them to chuse another Advocate, and afresh to pursue their Cause, as if it were then only to begin.

For if the people of *Rome* condemned their Captains and Generals of their Armies, because they capitulated with their Enemies to their disadvantage (although they were drawn to it by necessity, being on the point to be all overthrown) and would not be bound to perform the Souldiers Capitulation; much less shall a Free people be tyed to bear the Yoke of Thraldom, which is cast on them by those who should and might have prevented it, but being neither forced nor compelled did for their own particular Gain willingly betray those that had committed their Liberty to their Custody.

Wherefore Kings were created?

Now seeing that Kings have been ever established by the people, and that they have had Advocates joyned with them, to contain them within the limits of their Duties, the which Advocates considered in particular one by one, are under the King, and altogether in one intire Body are above him. We must consequently see wherefore such Kings were established, and what is principally their Duty. We usually esteem a thing just and good when it attains to the proper end for which it is ordained.

In the first place every one Confents, *That men by Nature loving Liberty, and hating Servitude, have rather to Command, they say, have not willingly abstained to be governed by another, and renounced it as were the Privilege of Nature, by submitting themselves to the Commands of others:*

but

but for some special and great profit that they expected from it. For as *Esope* says, That the Horse being before accustomed to wander at his pleasure, would never have received the Bit into his mouth, nor the Rider on his back, but that he hoped by that means to overmatch the Bull: neither let us imagine, that Kings were chosen to apply to their own proper use, the Goods that are gotten by the sweat of their Subjects; for every Man loves and cherisheth his own. They have not received the power and Authority of the people to make it serve as a Pander to their pleasures; for ordinarily, the inferiors hate, or at least Envy their Superiors.

Let us then conclude, that they are established in this place to maintain by Justice, and to defend by force of Arms, both the publick State, and particular persons from all Damages, and Outrages, wherefore Saint *Augustine* saith, *Those are properly called Lords and Masters which provide for the Good and Profit of others; as the Husband for the Wife, Fathers for their Children.* They must therefore obey them that provide for them; although indeed to speak truly, those which govern in this manner, may in a sort be said to serve those, whom they command over.

Aug. lib. 16. de civit. dei, c. 15.

For, as says the same Doctor, they command not for the desire of Dominion, but for the Duty they owe to provide for the good of those that are subjected to them: not affecting any Lord like Domineering, but with Charity and singular affection, desiring the Welfare of those that are committed to them.

Seneca in 8. Epistle says, That in the Golden Age, wise Men only governed Kingdoms, they kept themselves within the bounds of Moderation, and preserved the meanest from the oppression of the greatest. They perswaded and disswaded, according as it advantaged or disadvantaged, the publick profit; by their Wisdom, they furnished the publick with plenty of all necessaries, and by their discretion prevented scarcity, by their Valour and Courage they expelled hungers, by their many benefits they encreased and inriched their Subjects, they pleaded not their Duty, in making pompous shews, but in well-governing their people. No man made Tryal what he was able to do against them, because every one received what he was capable of from them, &c.

Therefore then to govern is nothing else but to provide for; These proper ends of commanding, being for the peoples Commodity; the only Duty of Kings and Emperors is to provide for the peoples Good. The Kingly Dignity to speak properly is not a Title of Honour, but a

weighty

weighty and burdensome Office: It is not a discharge or vacation from affairs, to run a licentious course of liberty, but a charge and vocation to all endustrious Employments, for the service of the Common-wealth; the which hath some glimple of honour with it, because in those first and Golden Ages, no man would have tasted of such continual troubles, if they had not been sweetned with some relish of honour; insomuch, as there was nothing more true, then that which was commonly said in those times, If every man knew with what turmoyles and troubles the Royal Wreath was wrapt withal, no man would vouchsafe to take it up, although it lay at his feet.

When therefore that these Words of mine and thine entred into the World, and that differences fell amongst fellow-Citizens, touching the propriety of Goods, and Wars amongst Neighbouring People about the right of their Confines, the People bethought themselves to have recourse to some one, who both could and should take order that the Poor were not oppressed by the Rich, nor the Patriots wronged by strangers. *Meum & tuum*

Nor as Wars and Suits encreased, they chose some one, in whose Wisdom and Valour they reposed most confidence. See then wherefore Kings were created in the first Ages; to wit, to Administer Justice at home, and to be Leaders in the Wars abroad, and not only to repulse the incursions of the Enemy, but also to repress and hinder the devastation and spoyling of the Subjects and their good at home; but above all, to expel and drive away all devices and debauchments far from their Dominions.

This may be proved by all Histories, both Divine and Prophane. For the People of God, they had at first no other King but God himself, who dwelt in the middest of them, and gave answer from between the Cherubims, appointed extraordinary Judges and Captains for the Wars; by means whereof the People thought they had no need of Lieutenants, being honoured by the continual presence of their Sovereign King.

Now when the People of God began to be weary of the injustice of the Sons of *Samuel*, on whose old age they durst no longer rely, they demanded a King after the manner of other People, saying to *Samuel*, *Give us a King as other People have, that we may judge us.* There is touched the first and principal point of the duty of a King: a little after they are both mencioned, *We will have* (said they) *a King over us like other Nations: One King shall judge us, and go out before us, and fight our Battels.* To do Justice is always set in the first place, for so much as it is an ordinary and perpetual thing; but Wars are extraordinary, and happen as it were casually. 1 *Sam.* 8. 5. & 20.

Arist. de pol. l. 3. c, 11. Wherefore, *Aristotle* says, That in the time of *Herold*, all Kings were Judges and Captains. For the *Lacedemonian* Kings, they in his time also had Soveraign Authority only in the Army, and that confined also to the Commandments of the *Ephores*.

Herod. l. 1. In like manner the *Medes*, who were ever in perpetual Quarrels amongst themselves, at the length chose *Deoices* for the Judge, who had carried himself well in the deciding of some particular differences; presently after they made him King, and gave him Officers and Guards, that he might more easily suppress the powerful and insolent.

Cicero saith, that Anciently all Kings were established to Administer Justice, and that their Institution, and that of the Laws, had one and the same end, which was, that Equity and Right might be duly rendered to all men; the which may be verified by the propriety of the words almost in all Languages. Kings are called by the Latins, *Reges a regendo*, for that they must rule and govern the limits and bounds, both of the publick and particulars. The names of Emperours, Princes, and Dukes have relation to their conduct in the wars, and principall places in Combats, and other places of Command. Likewise the Greekes call them in their Language, *Basiles*, *Archa*, *Hegemodes*, which is to say, props of the people, Princes, Conductors. The Germans and other Nations use all significant names, and which expresse, that the duty of a *King* consists not in making glorious Paradoes: but that it is an office of a weighty charge and continual care. But in brief, the Poet *Homer* calls Kings the Judges of Cities, and in describing of *Agamemnon*, he calls him wise, strong, and valiant. As also, *Ovid* speaking of *Erichtheus*, says, That it was hard to know, whether Justice or Valour were more transparent in him; in which these two Poets seems exactly to have described the duties of Kings and Princes. You see what was the Custom of the Kings of the Heathen Nations; after whose examples, the Jews demanded and established their Kings.

The English word KING is derived from the Konigen, which signifies either fortitude or wisdom.

Hom. lib. 1. Iliad.

Ovid. l. 6. meta.

Justia dubium validine potentior armis.

2 chron. 9. 8. The Queen of *Sheba* said also to *Solomon*, That God had made him King over them to do Judgment and Justice.

Wisdom 9. 7. And *Solomon* himself speaking to God, saith, Thou hast chosen me to be a King over thy People, and a Judge of thy Sons and Daughters.

For

For this cause also the good Kings, as *David*, *Josephat*, and others, being not able in their own Persons to determine all the suits and differences of their Subjects (although in the causes of greatest importance they received an appeal always to themselves, as appears in *Samuel*) had ever above all things a special care, to establish in all places Just and Discreet Judges, and principally still to have an eye to the right Administration of Justice; knowing themselves to carry the Sword, as well to chastise Wicked and Unjust Subjects, as to repulse forreign Enemies. 2 *Sam.* 15. 2. 1 *Chron.* 23. 4. & 26, 29. 2 *Chron.* 19. 11:

Briefly, as the Apostles says, *The Prince is ordain'd by God for the good and profit of the People, being armed with the Sword to defend the good from the violence of the wicked*, and when he dischargeth his duty therein, all men owe him honour and obedience. *Rom.* 13.

Seeing then that Kings are ordained by God, and established by the People, to procure and provide for the good of those which are committed unto them, and that this Good or Profit be principally expressed in two things, to wit, in the administration of Justice to their Subjects, and in the managing of Armies for the repulsing their Enemies: certainly, we must infer and conclude from this, that the Prince which applies himself to nothing but his peculiar profits and pleasures, or to those ends which most readily conduce thereunto, which contemns and perverts all laws, which uses his subjects more cruelly then the barbarous Enemy would do, he may truly and really be called a Tyrant; and that those which in this manner govern their Kingdoms, be they of never so large an extent, are more properly unjust pillagers and free-booters, then Lawful Governours.

Whether Kings be above the Law.

We must here yet proceed a little further; for it is demanded whether the King which presides in the administration of Justice have power to resolve and determine business according to his own will and pleasure? Must the Kings be subject to the law, or doth the law depend upon the King; the law (saith an Ancient) is respected by those which otherways contemn vertue, for it inforceth obedience, and ministreth conduct in warfaring, and gives vigor and luster to Justice and Equity. *Pausanias* the *Spartan* will answer in a word, that it becomes laws to direct, and men to yield obedience to their Authority. *Agesilaus* King of *Sparta* says, that all commanders must obey the commandments of the laws. But it shall not be amiss to carry this matter a little higher, when People began to seek for Justice to determine their differences, if they met with any private man that did *August.* l. 4. c. 4. & 6. *de civitat. Dei.*

justly appoint them they were satisfied with it, now for so much as such men were rarely and with much difficulty met withal, and for that the judgments of Kings received as laws were oftentimes found contrary and difficult, then the Magistrates and others of great wisdom invented laws, which might speak to all men in one and the same voice. This being done, it was expressly enjoyned to Kings, that they should be the guardians and administrators, and sometimes also for so much as the laws could not foresee the particularities of actions to resolve exactly, it was permitted the King to supply this defect, by the same natural equity by which the laws were drawn; and for fear least they should go against law, the People appointed them from time to time Associates, Counsellors, of whom we have formerly made mention, wherefore there is nothing which exempts the King from obedience which he owes to the Law, which he ought to acknowledge as his Lady and Mistress, esteeming nothing can become him worse then that feminine of which *Juvenal* speaks: *Sic volo, sic jubeo, sic pro ratione voluntas.* I will, I command, my will shall serve instead of reason, neither should they think their Authority the less because they are confin'd to Laws, for seeing the law is a divine gift coming from above, which humain societies are happily governed and addressed to their best and blessedest end; those Kings are as ridiculous and worthy of contempts, which repute it a dishonour to conform themselves to law, as those surveyors which think themselves disgraced, by using of a rule, a compass, a chain or other instruments, which men understanding the art of surveying are accustomed to do, or a Pilot which had rather sayle, according to his fantasie and imagination, then steer his course by his Needle and Sea-Card; who can doubt, but that it is a thing more profitable & convenient to obey the law, then the king who is but one man? the law is the soul of a good king, it gives him motion sence and life. The King is the Organ and as it were the body by which the Law displays her forces, exercises her function, and expresses her conceptions; now it is a thing much more reasonable to obey the soul, then the body; the law is the wisdom of diverse sages, recollected in few words, but many see more clear and further then one alone: It is much better to follow the Law then any one mens opinion be he never so acute, the law is reason and wisdom it self, free from all perturbation, not subject to be moved with Choler, Ambition, Hate, or acceptances of Persons; Intreaties nor threats cannot make to bow nor bend it on the contrary, a man though endued with reason suffers himself to be lead and transported with anger, desire of revenge,

renge, and others Passions which perplex him in such sort, that he loseth his understanding, because being composed of reason and disordered affections, he cannot so contain himself, but sometimes his passions becomes his Master. Accordingly we see that *Valentinian* a good Emperour, permits those of the Empire to have two Wives at once, because he was misled by that impure affection. Because *Cambises* the Son of *Cyrus* became inamoured of his own Sister, he would therefore have Marriages between Brother and Sister, be approved and held Lawful: *Cabades* King of the *Persians* prohibits the punishmens of Adulterours; we must look for such Laws every day, if we will have the Law subject to the King. To come to our purpose, The Law is an Understanding Mind, or rather an Obstacle of many Understandings: the Mind being the seal of all the intelligent faculties, is (if I may so term it) a parcel of Divinity; in so much, as he who obeys the Law, seems to obey God, and receive him for Arbitrator of the matters in Controversie.

But on the contrary, insomuch as Man is composed of this Divine Understanding, and of a number of Unruly Passions; so loosing himself in that Brutishness, as he becomes void of Reason; and being in that condition, he is no longer a Man, but a Beast; he then which desires rather to obey the King, then the Law, seems to prefer the Commandment of a Beast before that of God. *Aristotle lib. de mundo & lib. 3. polit. ca. 7.*

And furthermore, though *Aristotle* were the Tutor of *Alexander*, yet he confesseth, that the Divinity cannot so properly be compared to any thing of this Life, as to the Ancient Laws of well governed States; he that prefers the Common-wealth, applys himself to Gods Ordinances: but he that leans to the Kings Fancies, instead of Law, prefers Brutish Sensuality before well ordered Discretion. To which also the Prophets seems to have respect, who in some places describe these great Empires, under the representation of ravening Beasts. But to go on, is not he a very Beast, who had rather have for his guide a Blind and Mad-Man, then he which sees both with the Eyes of the Body, and Mind, a Beast rather then God. Whence it comes, that though Kings as saith *Aristotle*, for a while, at the first, commanded without restraint of Laws; yet presently after Civilized People, reduced them to a Lawful Condition, by binding them to keep and observe the Laws: and for this unruly Absolute Authority, it remained only amongst those which commanded over *Barbarous* Nations.

He says afterwards, That this Absolute Power was the next Degree to plain Tyranny, and he had absolutely called it Tyranny, had not

these

these beasts like *Barbarians*, willingly subjected themselves unto it. But it will be replyed, that it is unworthy the Majesty of Kings, to have their Wills bridled by Laws: But I will say, that nothing is more Royal, then to have our unruly Desires ruled by good Laws.

It is much pity to be restrained from that which we would do; it is much more worse to will that which we should not do, but it is the worst of all to do that which the Laws forbid.

I hear methinks a certain Furious Tribune of the People which opposed the passing of a Law that was made against the excess which then Reigned in *Rome*, saying, My Masters, you are bridled, you are idle and fettered with the rude bonds of servitude, your liberty is lost, a Law is laid on you, that commands you to be moderate: to what purpose is it to say, you are free, since you may not live in what excess of pleasure you like? This is the very complaint of many Kings at this day, and of their Minions and Flatters.

The Royal Majesty is abolished, if they may not turn the Kingdom topsie-turvie at their pleasure. Kings may go shake their Ears, if Laws must be observed.

Paradventure, it is a miserable thing to live, if a Mad-man may not be suffered to kill himself when he will.

For what else do those things which violate and abolish Laws, without which, neither Empires, no nor the very Societies of free-booters can at all subsist?

Cicero l. 2 officii.

Let us then reject these detestable faithless and impious vanities of the Court-Marmousites, which makes Kings Gods, and receive their sayings as Oracles; and which is worse, are so shameless to perswade Kings, that nothing is just or equitable of it self, but takes its true form of Justice or Injustice, according as it pleaseth the King to ordain: as if he were some God, which could never err nor sin at all. Certainly, all that which God wills is just, and therefore, suppose it is Gods will; but that must be just with the King wills, before it is his will. For it is not just, because the King hath appointed it; but that King is just, which appoints that to be held for just, which is so of it self.

We will not then say as *Anaxarchus* did to *Alexander*, much perplexed for the Death of his Friend *Clitus*, whom he had killed with his own hands; to wit, that *Themis* the Goddess of Justice, sits by Kings sides, as she does by *Jupiters*, to approve and confirm whatsoever to them shall seem good; but rather, she sits as president over Kingdoms, to severely Chastise those Kings which wrong or violate the Majesty

of

of the Laws? we can no ways approve that saying of *Thrasymachus* the *Chaldæan*, that the profit and pleasure of Princes, is the rule by which all Laws are defined; but rather, that right must limit the profit of Princes, and the Laws restrain their pleasures. And instead of approving that which that Villainous Woman said to *Caracalla*, that whatsoever he desired was allowed him: We will maintain that nothing is Lawful but what the Law permits.

And absolutely rejecting that detestable Opinion of the same *Caracalla*, that Princes give Laws to others, but receive none from any: we will say, That in all Kingdoms well established, the King receives the Laws from the people; the which he ought carefully to consider and maintain; and what soever, either by force or fraud he does, in Prejudice of them, must always be reputed unjust.

Kings receive Laws from the People.

These may be sufficiently verified by Examples. Before there was a King in *Israel*, God by *Moses* prescribed to him both sacred and civil Ordinances, which he should have perpetually before his Eyes; but after that *Saul* was elected and established by the People, *Samuel* delivered it to him written, to the end, he might carefully observe it; neither were the succeeding Kings received before they had Sworn to keep those Ordinances. *Deut.* 17

The Ceremony was this, That together with the setting of the Crown on the Kings head, they delivered into his hands the Book of the Testimony, which some understand *to be the right of the People of the Land*, others, *the Law of God, according to which he ought to Govern the People*. *Cyrus* acknowledging himself conservator of his Countreys Laws, obligeth himself to oppose any man that would offer to infringe them; and at his inauguration, tyes himself to observe them, although some Flatterers tickled the Ears of his Son *Cambises*, that all things were lawful for him.

The Kings of *Sparta*, whom *Aristotle* calls lawful Princes, did every month renew their Oaths, promising in the hands of the *Ephori*, procures for the Kingdom, to Rule according to those Laws which they had from *Lycurgus*. *Xenoph. de Reb. Laced.*

Hereupon it being asked *Archidamus*, the Son of *Zeuxidamus*, who were the Governours of *Sparta*: he answered, *The Laws, and the Lawful Magistrates*.

And

And least the Laws might grow into contempt, these people bragged that they received them from Heaven; and that they were inspired from above, to the end, that men might believe that their determinations were from God, and not from Man; the Kings of *Egypt* did in nothing vary from the Tenour of the Laws, and confessed that their principal Felicity consisted in the obedience they yielded to them. *Romulus* at the Institution of the *Roman* Kingdom, made this agreement with Senators, the people should make Laws, and he would take both for himself and others, to see them observed and kept. *Antiochus* the third of that Name, King of *Asia*, Writ unto all the Cities of his Kingdom, That if in the Letters sent unto them in his Name, there were any thing found repugnant to the Laws, they should believe they were no act of the Kings, and therefore yield no obedience unto them. Now although some Citizens say, That by Decree of Senate, the Emperour *Augustus* was declared to be exempt from obedience to Laws; yet notwithstanding, *Theodosius*, and all the other good and reasonable Emperours, have professed that they were bound to the Laws, lest what had been extorted by Violence, might be acknowledged and received instead of Law. And for *Augustus Cæsar*, insomuch as the *Roman* Common-wealth was enthralled by his power and violence; she could say nothing freely, but that she had lost her freedom. And because they durst not call *Augustus* a Tyrant, the Senate said he was exempt from all obedience to the Laws, which was in effect as much as if they plainly should have said the Emperour was an out-law. The same right hath ever been of force in all well-governed States and Kingdoms of Christendom.

Fulgos. lib. 5. c. 6.

For neither the Emperour, the King of *France*, nor the Kings of *Spain*, *England*, *Polander*, *Hungary*, and all other Lawful Princes; as the Arch Dukes of *Austria*, Dukes of *Brabante*, Earls of *Flanders*, and *Holland*, nor other Princes, are not admitted to the Government of their Estates, before they have promised to the Electours, Peers, Palatines, Lords, Barons, and Governours, that they will render to every one right according to the Laws of the Countrey, yea so strictly that they cannot alter or innovate any thing contrary to the priviledges of the Countreys, without the consent of the Towns and Provinces; if they do it, they are no less guilty of Rebellion against the Laws, than the people is in their kind, if they refuse obedience, when they command according to Law; Briefly, Lawful Princes receive the Laws from the People as well as the Crown, in lieu of Honour, and the

Sceptre

Scepter in lieu of power, which they are bound to keep and maintain and therein repose their chiefest Glory.

If the Prince may make new Laws?

What then? shall it not be lawful for a Prince to make new Laws and abrogate the old? seeing it belongs to the King, not only to advise that nothing be done neither against, nor to defraud the Laws; but also that nothing be wanting to them, nor any thing too much in them; briefly, that neither Age nor Lapse of time do abolish or entomb them; if there be any thing to abridge, to be added or taken away from them, it is his Duty to assemble the Estates, and to demand their Advice and Resolution, without presuming to publish any thing before the whole have been, first, duly examined and approved by them, after the Law is once enacted and published, there is no more dispute to be made about it, all men owe obedience to it, and the Prince in the first place, to teach other men their Duty, and for that all men are easilier led by Example than by Precepts, the Prince must necessarily express his Willingness to observe the Laws, or else by what equity can he require Obedience in his Subjects, to that which he himself contemns.

For the difference which is betwixt Kings and Subjects, ought not to consist in Impunity, but in Equity and Justice. And therefore, although *Augustus* was esteemed to be exempt by the Decree of the Senate, notwithstanding reproving of a young man that had broken the *Julian* Law concerning Adultery, he boldly replied to *Augustus*, that he himself had transgressed the same Law which condemns Adulterers. The Emperor acknowledged his Fault, and for grief swore too late. So convenient a thing it is in Nature, to practise by example that which we would teach by precept. *Demosth. in orat. in Timocrat.*

The Lawgiver *Solon* was wont to compare Laws to Money, for they maintain humane societies, as money preserves Traffick, neither improperly, then if the King may not lawfully, or at the least heretofore could not mannage or embase good Money without the consent of the Common-wealth, much more less can he have power to make and unmake Laws, without the which, nor Kings, nor Subjects, can cohabit in security, but must be forced to live brutishly in Caves and Desarts like wild Beasts, wherefore also the Emperor of *Germany* esteeming it needful to make some Law for the good of the Empire, first he demands the Advice of the Estates, if it be there approved, the Princes, Barons and Deputies of the Towns sign it, and then the Law is ratified, for he solemnly swears to keep the Laws already made, and to introduce no new ones without a general Consent. *Innocen. 3. in regem. Fam. in ca. de jure jurando.*

There is a Law in *Polonia*, which hath been renewed in the Year 1454. and also in the year 1538. and by those it is decreed, that no new Laws shall be made, but by a common Consent, nor no where else, but in the General Assembly of the Estates.

For the Kingdom of *France*, where the Kings are thought to have greater Authority than in other places; anciently, all Laws were only made in the Assembly of the Estates, or in the Ambulatory *Parliament*. But since this Parliament hath been Sedentary, the Kings Edicts are not received as authentical, before the *Parliament* hath approved them.

Whereas on the Contrary, the Decrees of this *Parliament*, where the Law is defective, have commonly the power and effect of Law. In the Kingdoms of *England*, *Spain*, *Hungary*, and others, they yet enjoy in some sort their ancient Priviledges.

For, if the Welfare of the Kingdom depends on the observation of the Laws, and the Laws are enthralled to the pleasure of one man; is it not most certain, that there can be no permanent stability in that Government? Must it not then necessarily come to pass, that if the King (as some have been) be infected with Lunacy, either continually, or by intervals, that the whole State fall inevitably to ruine? But if the Law be superior to the King, as we have already proved, and that the King be tied in the same respect of obedience to the Laws, as the Servant is to his Master, who will be so senseless, that will not rather obey the Law than the King? or will not readily yield his best assistance against those that seek to violate or infringe them? Now seeing that the King is not Lord over the Laws, let us examine how far his Power may be justly extended in other things.

Whether the Prince have Power of Life and Death over his Subjects?

The Minnions of the Court hold it for an undeniable Maxim, That Princes have the same power of Life and Death over their Subjects, as anciently Masters had over their Slaves, and with these false Imaginations have so bewitched Princes, that many, although they put not in ure with much rigour this imaginary right, yet they imagine that they may lawfully do it, and in how much they desist from the practise thereof, insomuch, that they quit and relinquish their right and due.

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But we affirm on the contrary, that the Prince is but as the Minister and Executor of the Law, and may only unsheath the Sword against those whom the Law hath condemned; and if he do otherwise, he is no more a King, but a Tyrant; no longer a Judge, but a Malefactor, and instead of that honorable Title of Conservator, he shall be justly branded with that foul Term of Violator of the Law and Equity.

We must here first of all take into our Consideration the foundation on which this our Disputation is built, which we have resolved into this Head, *That Kings are ordained for the benefit and profit of the publick State*; this being granted, the question is soon discust. For who will believe that men sought and desired a King, who upon any sudden motion, might at his pleasure cut their Throats, or which in colour or Revenge, might when he would take their Heads from their Shoulders.

Briefly, who (as the wise man says) carries Death at his girdle's end, we must not think so idely.

There is no man so vain, which would willingly that his Welfare should depend of anothers pleasure; Nay, with much difficulty will any man trust his Life in the hands of a Friend or a Brother, much less of a Stranger, be he never so worthy. Seeing, that Fury, Hate, and Rage did so far transport *Athens* and *Ajax*, beyond the bounds of reason, that the one killed his Children, the other failing to effect his desire in the same kind against his Friends and Companions, turned his Fury and murtherous intent, and acted the same Revenge upon himself. Now it being natural to every man to love himself, and to seek the preservation of his own Life.

In what assurance, I pray you, would any man rest, to have a sword continually hanging over his head by a small thread, with the point towards him? Would any Mirth or Jollity relish in such a continual Affright? Can you possibly make choice of a more slender Thread, than to expose your Life and Welfare into the hands and power of a Man so mutable, that changes with every puff of Wind, briefly, which almost a thousand times a day, shakes off the Restraint of Reason and Discretion, and yields himself Slave to his own unruly and disordered Passions.

Can there be hoped or imagined any profit or advantage in great or so worthy, which might equallize or counterpoise the fear of this danger? Let us conclude then, that it is against Delinquents only,

whom the mouth of the Law hath condemned, that Kings may draw forth the Sword of their Authority.

If the King may pardon those whom the Law condemns?

But because Life is a thing precious, and to be favoured, peradventure it will be demanded, whether the King may not pardon and absolve those whom the Law hath condemned?

I answer, no. Otherwise this cruel pitty would maintain Thieves, Robbers, Murtherers, Ravishers, Poysoners, Sorcerers, and other Plagues of Mankind, as we may read Tyrants have done heretofore in many places, and to our woful Experience, we may yet see at this present time; and therefore, the stopping of Law in this kind, will by impunity, much encrease the Number of Offendors.

So that he which received the Sword of Authority from the Law, to pardon Offences, will arm Offenders therewith against the Laws, and put himself the Wolf into the Fold, which he ought to have warranted from their ravenous Outrage.

But for so much that it may chance in some occasions, that the Law being mute, may have need of a speaking Law, and that the King being in some cases the aptest Expositor, taking for the Rule of his Actions, Equity and Reason, which as the Soul of the Soul may so clear the intention thereof, as where the Offence is rather committed against the Words, than the Intendment of the Law, he may free the innocent Offender from the Guilt thereof because a just and equitable Exposition of the Law may in all good reason be taken for Law itself, as nearest concurring with the Intention of the Law-Makers.

L. *Nominis & rei* S. *verbum ex lege.* D. *de verb. signif.*

Notwithstanding, least Passion should prepossess the place of reason, Kings should in this, fashion themselves to the ordinary practice of the Emperor *Severus*, not to determine absolutely any thing before it were maturely discussed by upright and discreet Men in that Faculty.

And so the King may rigorously punish the Murtherer; and yet notwithstanding, pardon him, which casually, and without any such purpose killeth one. He may put to death the Thief, and yet pardon that man, which in his own defence killeth him that would have robbed him. Briefly, in all other Occurrences he may distinguish, as being established Arbitrator and Neuter, Chance-medly from Malice, fore-thought [illegible] good purpose from the Rigor of the Law, without favouring at any time Malice or Treason. Neither can the

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right omission of this duty gain to him any true esteem of meerfull: for certainly that Shepheard is much more pitifull which kills the Wolf, then he which lets him escape: the clemency of that King is more commendable which commits the Malefactor to the Hangman, than he which delivers him; by putting to death the Murtherer, many Innocents are delivered from danger: whereas by suffering him to escape, both he and others through hope of the like impunity, are made more audacious to perpetrate farther mischief, so that the immediate act of saving one Delinquent, arms many hands to murther divers Innocents; there is therefore both cruell Madness in putting to death some, and as certainly Cruelty in pardoning of others. Therefore as it is permitted the King, being as it were Lex of the Law, in some cases to interpret the words thereof: so in all well ordered Kingdoms, it is enjoyned the Counsel of State, and their duty obligeth them to examine the Kings interpretation, and to moderate both his severity and facility. If through the corruption and weakness of Men this have not been so really and throughly observed as it ought: Yet notwithstanding the right always remains intire, and there wants only Integrity and Courage in the Parties to make it effectual.

But not to heap up too many Examples in a matter so manifestly clear, it hath been in this manner practised in the Realm of *France*. For we have there oftentimes seen those put to death, to whom the King had granted his Charter of Pardon: and those pardoned, whom he commanded should be put to death. And sometimes Offences committed in the King's presence remitted, because there was no other Witness but himself. The which happened in the time of *Hen.* 2. to a certain Stranger, who was accused by the King himself of a grievous offence. If an Offender by the intercession of Friends have his Pardon granted by the King, the Chancellor upon sufficient cause may cancel it: If the Chancellor connive, yet must the Criminal present it before the Judges, who ought not only carefully to consider, whether the Pardon were gotten by surreptitious or indirect means, but also if it be legal and in due form. Neither can the Delinquent that hath obtained his Charter of Pardon make use of it, until first he appeal in Publick Court bare-headed, and on his knees plead it, submitting himself Prisoner until the Judges have maturely

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weighed and considered the reasons that induced the King to grant him his pardon: If they be found insufficient, the offender must suffer the punishment of the Law, as if the King had not granted him any pardon: But if his pardon be allowed, he ought not so much to thank the King, as the equity of the Law which saved his life. The manner of these proceedings was excellently ordained, both to contain the King within the limits of equity, lest being armed with publick Authority, he should seek to revenge his own particular spleen, or out of fancy or partiality remit the wrongs and outrages committed against the publick safety: as partly also to restrain an opinion in the Subject, that any thing could be obtained of the King which might prejudice the Laws. If these things have been ill observed in our times, notwithstanding that which we have formerly said, remains always certain, that it is the Laws which have power over the lives and deaths of the Inhabitants of a Kingdom, and not the King which is but Administrator and Conservator of the Laws.

Subjects are the King's Brethren, and not his Slaves.

For truly neither are the Subjects, as it is commonly said, the Kings Slaves, or Bondmen: being neither prisoners taken in the Wars, nor bought for money: But as considered in one intire body, they are Lords, as we have formerly proved; so each of them in particular ought to be held as the Kings *Brothers and Kinsmen*. And to the end that we think not this strange, let us hear what God himself saith when he prescribes a Law to Kings; That they lift not their heart above their Brethren from amongst whom they were chosen. Whereupon *Bartolus* a famous Lawyer, who lived in an age that bred many Tyrants, did yet draw this conclusion from that Law, that Subjects were to be held and used in the quality and condition of the Kings Brethren, and not of his Slaves. Also King *David* was not ashamed to call his Subjects *his brethren*. The ancient Kings were called *Abimelech*, an *Hebrew* word which signifies, *My father the King*. The Almighty and all good God, of whose great gentleness and mercy we are daily partakers, and very seldom feel his severity, although we justly deserve it, yet is it always mercifully mixed with compassion; whereby he teacheth Princes, his Lieutenents, that Subjects ought rather to be held in obedience by love, than by fear.

Deut. 17. 15. 20.

Barto. in tract. de regim civit

1 Chr. 28. 2.

But lest they should except against me, as if I sought to intrench

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too much upon the Royal Authority, I verily believe it is so much the greater, by how much it is likely to be of longer continuance. For saith one, servile fear is a bad guardian, for that Authority we desire should continue; for those in subjection hate them they fear, and whom we hate, we naturally wish their destruction: On the contrary, there is nothing more proper to maintain their Authority than the affection of their subjects, on whose love they may safelieſt and with moſt security lay the foundation of their greatneſs. And therefore that Prince which governs his Subjects as Brethren, may confidently assure himself to live securely in the midſt of dangers: whereas he that uſeth them like slaves, muſt needs live in much anxiety and fear, and may well be resembled to the condition of that Maſter which remains alone in some Deſart in the midſt of a great Troop of Slaves, for look how many Slaves any hath, he muſt make account of so many Enemies, which almoſt all Tyrants that have been killed by their Subjects have experimented: Whereas on the contrary, the Subjects of good Kings are ever as ſolicitouſly careful of their ſafety, as of their own welfare.

Cicer. l. 2. offic.

To this may have reference that which is read in divers places of *Ariſtotle*, and was ſaid by *Agaſicles* King of *Sparta*, That Kings command as Fathers over their Children, and Tyrants as Maſters over their Slaves, which we muſt take in the ſame ſence, that the Civilian *Marcianus* doth, to wit, that Paternal Authority conſiſts in Piety, and not in Rigour, for that which was practiſed amongſt the Men of the Acorn Age, that Fathers might ſell, and put to death their Children at their pleaſure, hath no Authority amongſt Chriſtians, yea, the very Pagans which had any humanity, would not permit it to be practiſed on their Slaves. Therefore then the Father hath no power over the ſons life, before firſt the Law have determined it, otherwiſe he offends the Law, *Cornelius* againſt privy Murtherers, and by the Law *Pompeius* againſt *Parricides*, the Father is no leſs guilty which kills the ſon, than the Son which murthers the Father: For the ſame occaſion the Emperor *Adrian* baniſhed into an Iſland, which was the uſual puniſhment for Notorious Offenders, a Father which had ſlain his Son, of whom he had entertained a jealous opinion for his Mother-in-Law, concerning Servants or Slaves, we are admoniſhed in holy writ to uſe them like Brethren, and by Human

Plato lib. 8. de epub. Seneca. Aliud eſt ſervire, aliud obedire: aliud libertas, aliud licentia.

L. 5. D. de paricid. L. 2. ad leg. Cornelium de ſicar ubi ulp. L. 1. c. de parricid.

Conſtitu-

Constitutions as Hirelings, or Mercenaries.

Ecclesiast. 33. Cicer. lib. 2. offici. Diod. Sic. lib. 2. C. 2. L. 1. D. de his qui sunt sui, vel al. juris.

By the Civil Law of the *Egyptians*, and *Romans*, and by the Constitutions of the *Antonines*, the Master is as well liable to punishment which hath killed his own slave, as he which killed another mans. In like manner the Law delivers from the power of the Master, the Slave whom in his sickness he hath altogether neglected, or hath not afforded convenient food, and the infranchised Slave whose condition was somewhat better, might for any apparent injury, bring his action against his Patron. Now seeing there is so great difference between Slaves, and Lawful Children, betwixt Lords and Fathers, and notwithstanding heretofore it was not permitted amongst the Heathen, to use their Slaves cruelly: What shall we say, pray you, of that Father of the people, which crys out tragically with *Atreus*, I will devour my Children? In what esteem shall we hold that Prince which takes such pleasure in the massacring his Subjects, (condemned without being ever heard) that he dispatched many thousand of them, in one day, and yet is not glutted with blood: Briefly who after the Example of *Caligula* (surnamed the *Pharaon* of the World) wisheth that all his people had but one Head that he might cut it off at one blow? Shall it not be lawful to implore the assistance of the Law against such furious madness, and to pull from such a Tyrant the sword which he received to maintain the Law, and defend the good, when it is drawn by him only for rapine, and ruine?

Whether the goods of the people belong to the King?

But to proceed, let us now see whether the King whom we have already proved, hath not power over the lives of his Subjects; is not at the least Lord over their Goods. In these days there is no language more common in the Courts of Princes, then of those who say all is the Kings. Whereby it follows, that in exacting any thing from his Subjects he takes but his own, and in that which he leaves them, he expresseth the care he hath that they should not be altogether destitute of means to maintain themselves; and this opinion hath gained so much power in the minds of some Princes, that they are not ashamed to say that the pains, sweat and industry of their Subjects is their proper Revenue, as if their miserable Subjects only kept Beasts

to

to Till the Earth for their insolent Masters profit, and luxury. And indeed the practise at this day is just in this manner, although in all right and equity it ought to be contrary, now we must always remember that Kings were created for the good and profit of the People, and that those (as *Aristotle* says) which indeavour and seek the Commodity of the People, are truely Kings: whereas those that make their own private ends and pleasures, the only butt and aim of their desires are truly Tyrants.

It being then so that every one loves that which is his own, yea that many covet that which belongs to other Men, is it any thing probable that Men should seek a Master to give him frankly all that they had long laboured for, and gained with the Sweat of their Brows? May we not rather imagine, that they chose such a Man on whose integrity they relied for the administring of justice equally both to the Poor and Rich, and which would not assume all to himself, but rather maintain every one in the fruition of his own goods? or who like an unprofitable Drone, should suck the Fruit of other Mens Labours, but rather preserve the House for those whose industry justly deserved it? briefly, who instead of extorting from the true owners their goods, would see them defended from all ravening Oppressors? What I pray you skills it says the poor Country man, whether the King, or the Enemy make havok of my Goods, since through the spoil thereof I and my poor family die for hunger? what imports it whether a Stranger or home-bred Caterpiller ruine my Estate, and bring my poor fortune to extream beggery? Whether a forrein Souldier, or a Sicophant Courtier by force or fraud, make me a like miserable? Why shall he be accounted a barbarous Enemy, if thou be a friendly Patriot? Why he a Tyrant if thou be King? Yea certainly by how much Paracide is greater then Manslaughter, by so much the wickedness of a King exceeds in mischief the violence of an Enemy.

If then therefore in the Creation of Kings, Men gave not their own proper goods unto them, but only recommended them to their protection; by what other right then, but that of free booters, can they challenge the property of other Mens goods to themselves? Wherefore the Kings of *Egypt* were not (according to Law) at the first the Lords of particular Mens Estates, but were only then when they were sold unto them for Corn, and yet

Gen. 45. 1 Kings. 21. 1. &c. *L. venditor.* 13. *D. de com. præd. divid.*

yet may there well be question made of the validity of that contract. *Aliab* King of *Israel* could not compel *Naboth* to sell him his Vineyard; but rather if he had been willing, the Law of God would not permit it. The *Roman* Emperors which had an unreasonable power, could neither by right have done it. At this day there is with much difficulty any Kingdom to be found, where the meanest Subject may not suit the King, and where many times the King is not cast in the suit, which succeeding he must as well as others satisfie the Judgment. And to this is not contrary, although at the first view it seem so, that which some of their most familiars have written of the Emperors. That by the civil Law all things were the Kings, and that *Cæsar* was absolute Lord of all things, they themselves expound this their opinion in this manner, that the Dominion of all things belongs to the King, and the propriety to particular Persons, in so much as the one possesseth all by the right of commanding, the other by the Law of Inheritance. We know that it is a common saying amongst the Civilians, that if any make claim to a House or a Ship, it follows not therefore that he can extend his right to all the Furniture or Lading. And therefore a King may challenge and gain right to the Kingdom of *Germany*, *France* and *England*: and yet notwithstanding he may not lawfully take any honest Mans Estate from him, but by a manifest injustice, seeing that they are things diverse, and by Law distinguished, to be possessors of the whole, and of all the particular parts.

Whether the King be the proper owner of the Kingdom?

But the King, is he not Lord proprietor of the publick Revenue? We must handle this point somewhat more exactly then we did the former. In the first place, we must consider that the Revenue of the publick Exchequer is one thing, and the proper Patrimony of the Prince another, of different Nature are the goods of the Emperor, King, or Prince; to those of *Antonius*, *Henry*, or *Phillip*; those are properly the Kings, which he enjoys as King, those are *Antonius* his which he possesseth, as in the right of *Antonius*, the former he received from the people, the latter from those of his blood, as inheritor to them.

This distinction is frequent in the Books of the Civil Law, where there is a difference ever made, between the Patrimony of the

the Empire, and that of the Emperor, the Treasury of *Cæsar* is one thing, and the Exchequer of the Common-wealth another, and both the one and the other have their several procurers, these being diverse dispensers of the sacred and publick distributions, and of the particular and private Expences, insomuch as he which as Emperor is preferred before a private Man in a grant by Deed or Chartel, may also sometime as *Augustus* give place to an inferiour person.

In like manner in the Empire of *Germany* the Revenue of *Ferdinand* of *Austria* is one thing, and the Revenue of the Emperor *Ferdinand* is another: the Empire, and the Emperor have their several Treasures: as also there is difference in the Inheritances which the Princes derive from the Houses of their Ancestors, and those which are annexed to the Electoral Dignities. Yea amongst the *Turks* themselves, *Solimon* his Gardens and patrimonial Lands are distinguished from those of the publick, the one serving for the Provision of the *Sultans* Table, the other imployed only about the *Turkish* Affairs of State. There be notwithstanding Kingdoms as the *French* and *English*, and others in which the King hath no particular Patrimony, but only the Publick which he received from the People, there this former distinction hath no place. For the goods which belongs to the Prince as a private Person there is no question, he is absolute owner of them as other particular Persons are, and may by the Civil Law sell, ingage, or dispose of them at his pleasure. But for the goods of the Kingdom, which in some places are commonly called the *Demeans*, the Kings may not be esteemed nor called in any sort whatsoever, absolute Lords Proprietors of them. For what if a Man for the Flocks sake have made thee Shepheard, doth it follow that thou hast liberty, to flea, pill, sell, and transport the Sheep at thy pleasure? Although the People have established thee Judge, or Governour of a City, or of some Province, hast thou therefore power to alienate, sell, or play away that City or Province? And seeing that in alienating or passing away a Province, the People also are sold, have they raised thee to that Authority to the end thou shouldest separate them from the rest, or that thou shouldest prostitute and make them slaves to whom thou pleasest? Furthermore I demand if the Royal dignity be a Patrimony, or an Officer? If it be an Office, what Community hath

L. cum servus 39. sec. ult. D. de reg. 1. l. universi. 9. & l. seq. ff. de fundo patrim.

with any propriety? If it be a Patrimony, is it not such a one that at least the Paramount propriety remains still in the People which were the Doners? Briefly if the revenue of the Exchequer, or the Demeans of the Kingdom, be called the Dowry of the Common-wealth, and by good right, and such a Dowry whose dismembring or wasting, brings with it the ruine of the publick State, the Kingdom and the King, by what Law shall it be lawful to alienate this Dowry? Let the Emperor *Wenceslaus* be infatuated, the *French* King *Charles* the Sixth Lunatick, and give or sell the Kingdom, or part of it to the *English*, let *Malcolme* King of the *Scots*, lavishly dissipate the Demeans and consume the Publick Treasure, what follows for all this? Those which choose the King to withstand the Invasions of forrein Enemies, shall they through his Madness and negligence be made the Slaves of strangers, and those Means and Wealth, which would have secured them in the fruition of their own Estates and Fortunes? Shall they by the Election of such a King be exposed to the Prey and Rapine of all commers, and that which particular Persons have saved from their own necessities, and from those under their Tutorship and Government, (as it hapned in *Scotland*) to indue the Common-wealth with it, shall it be devoured by some Pandar or Broker, for unclean pleasures.

But if as we have often said, that Kings were constituted for the Peoples use, what shall that use be, if it be perverted into abuse? What good can so much mischief, and inconvenience bring, what profit can come of such eminent and irreparable dammages and dangers? If (I say) in seeking to purchase my own liberty and wellfare, I ingage my self into an absolute thraldom, and willingly subject my self to anothers Yoak, and become a fettered slave to another mans unruly desires, therefore as it is imprinted in all of us by Nature, so also hath it by a long custom been approved by all Nations, that it is not lawful for the King by the Counsel of his own fancy and pleasure, to diminish or waste the publick Revenue; and those which have run a contrary course, have even lost that happy Name of a King, and stood branded with the infamous Title of a Tyrant.

I confess that when Kings were instituted, there was of necessity means to be assigned for them, as well to maintain their Royal dignity, as to furnish the Expence of their Train and Officers.

Civility

Civility, and the welfare of the publick State, seem to require it, for it was the Duty of a King to establish Judges, in all places, who should receive no Presents, nor sell Justice; and also to have Power ready to assist the execution of their Ordinances, and to secure the ways from dangers, that commerce might be open, and free, &c. If there were likelihood of Wars to fortifie and put Garrisons into the frontier places, and to hold an Army in the Field, and to keep his Magazines well stored with Ammunition. It is commonly said, that Peace cannot be well maintained without provision for Wars, nor Wars managed without men, nor men kept in Discipline without Pay, nor Money gotten without Subsidies, and Tributes.

To discharge therefore the burden of the State in time of Peace, was the demean appointed, and in time of Wars the Tributes and Imposts, yet so as if any extraordinary necessity required it, Money might be raised by Subsidies or other fitting means. The final intendment, of all, was ever the publick Utility, in so much as he which converts any of these publick Revenues to his own private purposes, much more he which misspends them in any unworthy or loose occasions, no way merits the name of a King, for the Prince (saith the Apostle) is the Minister of God for the good of the People: and for that cause is Tribute paid unto them. Rom. 15.

This is the true Original cause of the Customs, and Imposts of the *Romans*, that those rich Merchandizes which were brought from the *Indies*, *Arabia*, *Æthiopia*, might be secured in their passage by Land from Thiefs and Robbers, and in their *Transportation by Sea from Pirats, inasmuch as for their security, the Commonwealth maintained a Navy at Sea.* In this Rank we must put the Custom which was paid in the Red Sea, and other Imposts of Gates, Bridges, and Passages, for the securing of the great Road ways, (therefore called the *Prætorian Consular*, and the Kings High-ways,) from the spoil of Thieves and Free-booters. The care also of the Reparation of Bridges was referred to Commissaries deputed by the King, as appears by the Ordinance of *Lewis* the Courteous, concerning the twelve Bridges over the River *Seine*, commanding also Boats to be in a readiness, to ferry over Passengers, &c.

The same reason is recorded for all our Imposts in *England*, with which a Navy was wont to be maintained at Sea.

For the Tax laid upon Salt there was none in use in those times, the most of the Salt-pits being injoyed by private Persons, because it seemed that that which Nature out of her own bounty presented unto Men, ought no more to be inhaunsed by sale then either

either the light, the Air, or the Water, as a certain King called *Lycurgus* in the leſſer *Aſia*, began to lay ſome impoſitions upon the Salt-pits there, Nature as it were impatiently bearing ſuch a reſtraint of her Liberality, the Springs are ſaid to dry up ſuddenly. Now although certain *Mancipes* of the Court would perſwade us at this day, (as *Juvenal* complained in his time) that the Sea affords nothing of worth, or good, which falls not within the compaſs of the Kings Prerogative.

He that firſt brought this Taxation into *Rome*, was the *Conſul Livius*, who therefore gained the Sirname of *Salinator*, neither was it done but in the Commonwealths extream neceſſity. And in *France* King *Philip* the long, for the ſame reaſon obtained of the Eſtates the impoſition upon Salt for five years only, what Turmoils and Troubles the continuance thereof hath bred every Man knows. To be brief, all Tributes were impoſed, and continued for the Proviſion of means and Stipends for the men of War, ſo as to make a Province Stipendary or Tributary, was eſteemed the ſame with Military.

1 King. 9. 15. Behold wherefore *Solomon* exacted Tributes, to wit, to fortifie the Towns, and to erect and furniſh a publick Magazine, which being accompliſhed, the people required of *Rehoboam* to be freed from that burden. The *Turks* call the Tribute of the Provinces, the *Sacred Blood* of the People, and account it a moſt wicked Crime to imploy it in any thing but the defence of the People. Wherefore by the ſame reaſon all that which the King Conquers in War belongs to the People, and not to the King, becauſe the People bore the Charges of the War, as that which is gained by a Factor accrues to the account of his Maſter. Yea and what advantage he gains by Marriage, if it belongs ſimply and abſolutely to his Wife, that is acquired alſo to the Kingdom, for ſo much as it is to be preſumed that he gained not that preferment in Marriage in quality of *Philip* or *Charles*, but as he was King. On the contrary, in like manner the Queens have intereſt of indowment in the Eſtates which their Husbands gained and injoyed before they attained the Crown, and have no Title to that which is gotten after they are created Kings, becauſe that is judged as the acquiſt of the Common Purſe, and hath no proper reference to the Kings private Eſtate, which was ſo determined in *France*, betwixt *Philip* of *Valois*, and his Wife *Jean* of *Burgundy*. But to the end that there be no Money drawn from the People to

Poſtel. li. 3. de rep. Turc.

be

be imployed in private designs, and for particular ends and purposes; the Emperor swears, not to impose any Taxes or Tributes whatsoever, but by the Authority of the Estates of the Empire. As much do the Kings of *Polonia*, *Hungary*, and *Denmark* promise: the *English* in like manner enjoy the same unto this day, by the Laws of *Henry* the Third, and *Edward* the First.

The *French* Kings in former times, imposed no Taxes but in the Assemblies, and with the Consent of the three Estates; from thence sprung the Law of *Philip* of *Valois*, that the people should not have any Tribute laid on them but in urgent necessity, and with the Consent of the Estates. Yea and anciently after these Monies were collected they were locked in Coffers, through every Diocess and recommended to the special care of selected Men (who are the same which at this day are called *Elens*) to the end that they should pay the Soldiers enrolled, within the Towns of their Dioceses: the which was in use in other Countries, as namely in *Flanders* and other neighbouring Provinces. At this day, though many Corruptions be crept in, yet without the Consent and Confirmation of the Parliament, no exactions may be collected, notwithstanding there be some Provinces which are not bound to any thing, without the Approbation of the Estates of the Countrey, as *Languedoc*, *Brittany Province*, *Dauphiny*, and some others. All the Provinces of the Low Countries have the same Privileges: finally left the Exchequer devour all, like the Spleen which exhales the Spirits from the other Members of the Body. In all places they have confined the Exchequer within its proper bounds and limits. Seeing then it is most certain that what hath been ordinarily and extraordinarily assigned to Kings, to wit, Tributes, Taxes, and all the demeans which comprehend all Customs both for Importations, and Exportations, Forfeitures, Amercements, Royal Escheats, Confiscations, and other Dues of the same Nature, were consigned into their hands for the maintenance and defence of the People, and the State of the Kingdom, insomuch as if these Sinews be cut, the People must needs fall to decay, and in demolishing these Foundations the Kingdom will come to utter Ruin. It necessarily follows, that he which lays impositions on the People only to oppress them, and by the publick detriment seeks private Profit, and with their own Swords kills his Subjects, he truly is unworthy the name of a King: Whereas contrarily, a true King as he is

a careful manager of the publick Affairs, so is he a ready Protector of the Common welfare, and not a Lord in Propriety of the Commonwealth, having as little Authority to alienate or dissipate the demeans or publick Revenue, as the Kingdom it self. And if he mis-govern the State, seeing it imports the Commonwealth that every one make use of his own Talent, it is much more requisite for the publick Good, that he which hath the managing of it, carry himself as he ought.

And therefore if a prodigal Lord by the Authority of Justice, be committed to the Tuition of his Kinsmen and Friends, and compelled to suffer his Revenues and Means to be ordered, and disposed of by others; by much more reason may those which have interest in the Affairs of State, and whose Duty obligeth them thereto, take all the Administration and Government of the State out of the hands of him which either negligently executes his place, Ruins the Commonwealth, if after admonition he indeavours not to perform his Duty. And for so much as it is easily to be proved, that in all lawful Dominions the King cannot be held Lord in Propriety of the demean; without searching into those elder times, whereof we have an apt Representation in the Person of *Ephron* King of the *Hittites*, who durst not sell the Field to *Abraham* without the Consent of the People. This right is at this day practised in publick States: the Emperor of *Germany* before his Coronation doth solemnly swear that he will neither alienate, dismember, nor ingage any of the Rights or Members of the Empire. And if he recover, or Conquer any thing with the Arms and means of the publick, it shall be gained to the Empire, and not to himself. Wherefore when *Charles* the Fourth promised each of the *Electors* an hundred thousand Crowns to choose his Son *Wenceslaus* Emperor, and having not ready Money to deliver them, he mortgaged Customs, Taxes, Tributes, and certain Towns unto them, which were the proper Appurtenances of the Empire: whereon followed much and vehement Contestation, most Men holding this ingagement void. And questionless it had been so declared, but for the Profit that those reaped thereby, which ought principally to have maintained and held intire the Rights and Dignities of the Empire. And it followed also, that *Wenceslaus* was justly held uncapable of the Government of the Empire, chiefly because he suffered the Rights of the Empire over the Dutchy of *Milan* to be wrested from him.

Gen. 23.

Sleyd. l. 1. & bulla aurea.

L. 1. & passim c. de con. re. alien. naucler. in Chron.

There

There is a Law very ancient in the Kingdom of *Polonia*, which prohibits the alienating of any of the Kingdoms Lands; the which also was renewed by King *Lewis* in the year 1375. In *Hungary* in *anno* 1221. there was a complaint made to Pope *Honorius*, that King *Andrew* had ingaged the Crown Lands contrary to his Oath. In *England* was the same by the Law of King *Edw.* in the year 1298. Likewise in *Spain* by the Ordinance made under *Alphonsus*, and renewed in the year 1560. in the Assembly of the Estates at *Toledo*. These Laws were then ratified, although long time before Custom had obtained the vigor and effect of Law. Now for the Kingdom of *France* wherein I longer confine my self, because she may in a sort pass as a pattern to the rest, this right hath ever remained there inviolable. It is one of the most ancient Laws of the Kingdom, and a right born with the Kingdom it self, that the Demain may not be alienated: the which Law in *anno* 1566. (although but ill deserved) was renewed. There is only two cases excepted, the Portions or Appenages of the children and Brothers of the King, yet with this Reservation, that the right of Vassalage remains always to the Crown: in like manner if the condition of War require necessarily an alienation, yet it must be ever with power of Redemption. Anciently neither the one nor the other were of Validity, but by the commandment of the States: at this day since the *Parliament* hath been made Sedentary, the *Parliament* of *Paris* which is the Court of the Peers, and the Chamber of Accounts, and of the Treasury, must first approve it: as the Edicts of *Charles* the sixth and ninth do testifie. This is a thing so certain, that if the ancient Kings themselves would endow a Church (although that was a work much favoured in those days) they were notwithstanding bound to have an allowance of the Estates: witness King *Childebert*, who might not endow the Abbey of St. *Vincent* at *Paris* before he had the *French* and *Neustrasian's* consent. *Clovis* the 2d. and other Kings have observed the same. They might neither remit the regalities by granting infranchisements, nor the nomination of Prelates to any Church. And if any of them have done it, as *Lewis* 11. *Philip* 4. and *Philip* surnamed *Augustus*, did in favour of the Churches of *Sens*, *Auxerre*, and *Nevers*, the *Parliament* hath declared it void. When the King is anointed at *Reims*, he swears to observe this Law: and if he infringe it, that Act hath as much validity with it, as if he Contracted to sell the Empires of the Great *Turk*, or *Sophia* of *Persia*. From this spring the Constitutions or Ordinances of *Philip* 6. of *John* 2d. of *Charles* 7th. 6th. and 8th. by which they revoke all alienations made by their Predecessors.

C. intellecto de jure jurando in Decretal. Polid. Virgil. In cod. His. part 5. l. 5. constit. 9.

Papon Arestor. l. 5. tit. 10. Act. 4.

Aimonius l. 4. cha. 41. &c.

L. petto. 69. Sect. prædium. D. de leg. 2. An. 1329. 1360. 1374. 1401. 1583.

Anno 1483. 1522. 1531. 1549. 1560. by divers Decrees of the Court of Parliament.

In the Assembly of the Estates at *Tours*, where King *Charles* the 8th was in person, divers alienations made by *Lewis* 11. were repealed, and annihilated, and there was taken away from the Heirs of *Yancred* of *Chastel* his great Minnion, divers places which he had given him by his proper Authority. This was finally ratified in the last Assembly of the Estates held at *Orleans*. Thus much concerning the Kingdoms Demean. But to the end that we may yet more clearly perceive that the Kingdom is preferred before the King, and that he cannot by his own proper Authority diminish the Majesty he hath received from the people, nor infranchise or release from his Dominion any one of his Subjects; nor quit or relinquish the Soveraignty of the least part of his Kingdom. *Charlemain* in former times endeavoured to subject the Kingdom of *France* to the *German* Empire: the which the *French* did courageously oppose by the mouth of a Prince of *Glascoune*; and if *Charlemayn* had proceeded in that business, it had come to the trial of the Sword. In like manner when any portion of the Kingdom was granted to the *English*, the Soveraignty was almost always reserved. And if sometimes they obtain'd it by force, as at the Treaty of *Bretigny*, by the which King *John* quitted the Soveraignty of *Glascoune* and *Poyton*: that agreement was not kept, neither was he more bound to do it, then a Tutor or Guardian is being Prisoner (as he was then) which for his own deliverance should ingage the estate of his Pupils. By the power of the same Law the Parliament of *Paris* made void the Treaty of *Conflius*, by the which Duke *Charles* of *Burgundy* had drawn from the King *Amiens*, and other Towns of *Picardy*. In our days the same Parliament declared void the Agreement made at *Madrid*, between *Francis* the 1. then Prisoner, and *Charles* the 5. concerning the Dutchy of *Burgundy*. But the donation made by *Charles* the 6. unto *Hen.* King of *England* of the Kingdom of *France* after his dicease is a sufficient testimony for this matter, and of his madness, if there had been no other proof. But to leave off producing any further Testimonies, Examples, or Reasons, by what right can the King give or sell away the Kingdom, or any part of it: seeing it consisteth of people, and not of Earth or Walls; and of Freemen there can be made no sale, nor traffick: yea, and the Patrons themselves cannot compel the Infranchised Servants to make their Habitations in other places than themselves like. The which is the rather to be allowed, in that Subjects as neither Slaves, nor infranchised Servants, but Brothers: and not only the Kings Brethren taken one by one, but also considered in one body, they ought to be esteemed absolute Lords, and owners of the Kingdom.

Paulus Æmilius, lib. 3.

Anno 1195. 1200. 1229. 1297. 1303. 1325. 1330. Anno 1360.

Anno 1465.

Anno 1525.

Anno 1420. Moustrelet. chap. 2. 25.

Whether

Whether the King be the Usufructuor of the Kingdom.

But if the King be not Lord in propriety, yet at the least we may esteem him Usufructuor of the Kingdom, and of the Demean; nay, truly we can allow him to have the Usufruit for being Usufructor, though the Propriety remain in the People, yet may he absolutely dispose of the Profits, and ingage them at his pleasure. Now we have already proved, that Kings of their own Authority cannot ingage the Revenues of the Exchequer, or the Demean of the Kingdom. The Usufructuor may dispose of the Profits to whom, how, and when he pleaseth. Contrarily, the excessive Gifts of Princes are ever judged void, his unnecessary Expences are not allow'd, his Superfluous to be cut off, and that which is expended by him in any other occasion, but for the publick Utility, is justly esteemed to be unjustly extorted. And is no less liable to the Law *Cincea*, than the meaneſt *Roman* Citizen formerly was. In *France*, the Kings Gifts are never of force, until the Chamber of Accounts have confirmed them. From hence proceed the Postils of the ordinary Chamber, in giving up of the Accounts in the Reigns of prodigal Kings, *Trop donné : soit repelé*, which is, excessive Gifts must be recalled. The Judges of this Chamber solemnly swear to pass nothing which may prejudice the Kingdom, or the publick State, notwithstanding any Letters the King shall write unto them; but they are not always so mindful of this Oath as were to be desire.

Furthermore, the Law takes no care how a Usufructuor possesseth, and governs his Revenues, but contrariwise, she prescribes unto the King, how and to what use he shall imploy his. For the ancient Kings of *France*, were bound to divide their Royal Revenues into four parts. The first was implyed in the maintaining of the Ministers of the Church, and providing for the Poor: The second for the Kings Table: The third for the Wages of his Officers and Houshold Servants: The last in repairing of Bridges, Castles, and the Royal Palaces. And what was remaining, was laid up in the Treasury, to be bestowed on the Necessities of the Common wealth. And Histories do at large relate the Troubles and Tumults which hapned about the Year 1412. in the Assembly of the Estates at *Paris*, because *Charles* the Sixth had wasted all the Money that was raised of the Revenues and Demean, in his own and his Minions loose Pleasures, and that the Expences of the Kings Houshold, which before exceeded not the Sum of 94000 Francks, did amount, in that miserable Estate of the Common-wealth, to five hundred and forty thousand Francks. Now as the Demean was imployed in the before mentioned Affairs, so the Aids were only

Monstrel in Car. 6.

ly for the War, and the Taxes assigned for the Payment of the men at Arms and for no other occasion. In other Kingdoms the King hath no greater Authority, and in divers less, especially in the Empire of *Germany*, and in *Poland*. But we have made choise of the Kingdom of *France*, to the end it be not thought this hath any special Prerogative above others, because there perhaps the Common-wealth receiveth the most Detriment. Briefly, as I have before said, the Name of a King signifies not an Inheritance, nor a Propriety, nor a Usufruict, but a Charge, Office, and Procuration. As a Bishop is chosen to look to the Welfare of the Soul, so is the King established to take care of the Body, so far forth as it concerns the publick Good; the one is Dispenser of the Heavenly Treasure, the other of the Secular, and what Right the one hath in the Episcopal Revenues, the same hath the other, and no greater in the Kingdoms Demean. If the Bishop alien the Goods of the Bishoprick without the Consent of the Chapter, this Alienation is of no value; if the King alien the Demean without the Approbation of the Estates, that is also void; one Portion of the Ecclesiastical Goods ought to be imployed in the Reparation of the Churches; the second in Relieving of the Poor; the third, for the Maintenance of the Church-men, and the fourth for the Bishop himself: We have seen before, that the King ought to divide into four parts the Revenues of the Kingdoms Demean. The Abuse of these times cannot infringe, or annihilate the Right, for although some part of the Bishops steal from the Poor that which they profusely cast away on their Pandars, and ruine and destroy their Lands and Woods, the calling of the Bishops is not for all that altered. Although that some Emperors have assumed to themselves an absolute Power, that cannot invest them with any further Right, because no man can be Judge in his own Cause. What if some *Caracalla* Vaunt, he will not want Money whilst the Sword remains in his Custody: The Emperor *Adrian* will promise on the contrary, so to discharge his Office of Principality, that he will always remember that the Common-wealth is not his, but the Peoples; which one thing almost distinguisheth a King from a Tyrant. Neither can that Act of *Attalus* King of *Pergamus* designing the *Romans People* for Heirs to his Kingdom, nor that of *Alexander* for *Aegypt*, nor *Ptolomy* for the *Cyrenians*, bequeathing their Kingdoms to the same *People*, nor *Prolusagus* King of the *Iceni*, which left his to *Cæsar*, draw any good Consequence of Right to those which usurp that which by no just Title belongs to them, nay, by how much the intrusion is more violent, by so much the Equity and Justice of the Cause is more perspicu-

Ex concil. Valent. in c. 1. de his quæ fiunt a prælat. absq; consensu capit.

ous:

ous: for what the *Romans* assumed under the colour of Right, they would have made no difficulty if that pretext had been wanting to have taken by force: we have seen almost in our days how the *Venetians* possest themselves of the Kingdom of *Cyprus*, under pretence of an imaginary Adoption, which would have proved ridiculous, if it had not been seconded by Power and Arms. To which also may be not unfitly resembled the pretended Donation of *Constantine* to Pope *Silvester*, for that Straw of the decretist *Gratian*, was long since consumed and turned to Ashes, neither is of more Validity, the Grant which *Lewis* the Courteous made to Pope *Paschal* of the City of *Rome*, and part of *Italy*, because he gave that which he possessed not, no man opposed it. But when his Father *Charlemain* would have united and subjected the Kingdom of *France* to the *German* Empire, the *French* did lawfully oppose it: and if he had persisted in his purpose, they were resolved to have hindred him, and defended themselves by Arms. There can be too as little advantage alledged, that Act of *Solomons*, whom we read to have delivered twenty Towns to *Hiram* King of *Tyre*: for he did not give them to him but for the securing of the Talents of Gold which *Hiram* had lent him, and they were redeemed at the end of the term, as it appears by the Text. Further, the Soul was barren, and husbanded by the remaining *Canaanites*: But *Solomon* having redeemed it out of the hands of *Hiram*, delivered it to the *Israelites*, to be inhabited and tilled. Neither serves it to much more purpose, to alledge that in some Kingdoms there is no expresi Agreement between the King and the People; for suppose there be no mention made, yet the Law of Nature teacheth us, that *Kings* were not ordained to ruine, but to govern the Common-wealths, and that they may not by their proper Authority alter or change the Rights of the publick State, and although they be Lords, yet can they challenge it in no other Quality, than as Guardians do in the Tuition of their Pupils; neither can we account him a lawful Lord, which deprives the Common-wealth of her Liberty, and sels her as a Slave. Briefly, neither can we also alledge, that some Kingdoms are the proper Acquists of the King himself, insomuch as they were not conquered by their proper Means and Swords, but by the Hands, and with the Wealth of the Publick; and there is nothing more agreeable to reason, than that which was gained with the joynt faculties, and common danger of the Publick, should not be alien'd or

Volater. l. Georg. 3.

1 King. 9. 11.

2 Chron. 8. 2.

dispos'd

dispos'd of, without the consent of the States which represent the Common-wealth: and the necessity of this Law is such, that it is of force amongst robbers and free-booters themselves. He which follows a contrary course, must needs ruine humane society. And although the *French* conquered by force of Arms, the Countreys of *Germany* and *Gaule*, yet this before mentioned right remains still intire.

L. 2. & passim. C. de interd. Com. rer. alienat.

To conclude, we must needs resolve, that Kings are neither Proprietors, nor Usu-fructuaries of the Royal Patrimony: But only Administrators: And being so, they can by no just right attribute to themselves the propriety, use, or profit of private mens Estates, nor with as little reason the publick Revenues, which are in truth only the Common-wealths.

But before we pass any further, we must here resolve a doubt. The people of *Israel* having demanded a King, the Lord said to *Samuel*: hearken unto the voice of the people: notwithstanding, give them to understand what shall be the manner of the King which shall reign over them: *he will take your fields, your vineyards, your olive-trees, to furnish his own occasions, and to enrich his servants*; briefly, *he will make the people slaves.* One would hardly believe in what estimation the Courtiers of our times hold this Text, when of all the rest of the holy Scripture they make but a jest. In this place the Almighty and all good God, would manifest to the *Israelites* their levity, when that they had God himself even present with them, who upon all occasions appointed them holy Judges, and worthy Commanders for the Wars, would notwithstanding rather subject themselves to the disordered Commandments of a vain mutable man, than to the secure protection of the Omnipotent and Immutable God. He declares then unto them in what a slippery estate the King was placed, and how easily unruly authority fell into disordered violence, and Kingly power was turned into tyrannous wilfulness. Seeing the King that he gave them, would by preposterous violence draw the sword of authority against them, and subject the equity of the Laws to his own unjust desires: and this mischief which they wilfully drew on themselves, they would happily repent of, when it would not be so easily remedied. Briefly, this Text doth not describe the right of Kings, but what right they are accustomed to attribute to themselves: not what by the priviledge of their places they may justly do: but what power for the

1 Sam. 8. 7. &c.

satisfying

satisfying of their own lusts, they unjustly usurp. This will manifestly appear from the 17. Chapter of *Deuteronomy*, where God appoints a law for Kings. Here says *Samuel* the *King will use his Subjects like slaves?* there God forbids the King *to lift his heart above his brethren*, to wit, *over his Subjects, whom he ought not to insult over, but to cherish as his kinsmen. He will make Chariots, levy Horsemen, and take the goods of private men*, says *Samuel*: on the contrary in *Deuteronomy*, he is exhorted *not to multiply horse-men, nor to heap up gold and silver, nor cause the people to return into Ægypt*, to wit, *into bondage*. In *Samuel* we see pictured to the life wicked *Ahab*, which by pernicious means gets *Naboths* Vineyard: there *David*, who held it not lawful to drink that water which was purchased with the danger of his Subjects lives. *Samuel* foretels that the King demanded by the *Israelites*, instead of keeping the laws, would govern all according to his own fansie: On the contrary, God commands that his Law should by the Priests be delivered into the hands of the King, to copie it out, and to have it continually before his eyes. Therefore *Samuel* being High Priest, gave to *Saul* the Royal Law contained in the 17th of *Deuteronomy*, written into a Book, which certainly had been a frivolous act if the King were permitted to break it at his pleasure. Briefly, it is as much as if *Samuel* had said. *You have asked a King after the manner of other Nations, the most of whom have Tyrants for their Governors*: You desire a King to distribute justice equally amongst you but many of them think all things lawful which their own Appetites suggests unto them; in the mean season you willingly shake off the Lord, whose only will is equity and justice in the abstract.

Deut. 17.

1 Kings 21.

2 Sam. 23. 16.

In *Herodotus* there is a History which plainly expresses, *how apt the Royal Government is to degenerate into Tyranny*, whereof *Samuel* so exactly forewarns the people. *Deioces* much renowned for his justice, was first chosen Judge amongst the *Medes*: presently after, to the end he might the better repress those which would oppose justice, he was chosen King, and invested with convenient authority, then he desired a guard, after, a Citadel to be built in *Ecbatana* the principal City of the Kingdom, with colour to secure him from Conspiracies and Machinations of Rebels; which being effected, he presently applys himself to revenge the least displeasures which were offered him with the greatest punishments.

Herod. l. 2.

Finally, no Man might presume to look this King in the face, and

and to Laugh or Cough in his Presence, was punished with grievous Torments. So dangerous a thing it is, to put into the hands of a weak Mind (as all mens are by nature) unlimited Power. *Samuel* therefore teacheth not in that place, that the Authority of a King is absolute, ; on the contrary, he discreetly admoniſheth the People not to enthraul their Liberty under the unnecessary Yoak of a weak and unruly Master; he doth not absolutely exclude the Royal Authority, but would have it restrain'd within its own limits; he doth not amplifie the Kings Right with an unbridled and licentious Liberty; but rather tacitely perſwades to put a Bit into his Mouth. It seems that this advice of *Samuels* was very beneficial to the *Israelites*, for that they circumspectly moderated the Power of their Kings, the which, most Nations grown wise, either by the experience of their own, or their Neighbours Harms, have carefully looked unto, as will plainly appear by that which follows.

An Alliance or Covenant between the King and the People. Deut. 17. 1 Sam. 10. 27. 2 Sam. 5. 3.

We have shewed already, that in the establiſhing of the King, there were two Alliances or Covenants contracted; the first between God, the King, and the People, of which we have formerly treated; the second, between the King and the People, of which we must now say somewhat. After that *Saul* was establiſhed King, the Royal Law was given him, according to which he ought to Govern. *David made a Covenant in Hebron before the Lord*, that is to say, *taking God for witneſs, with all the Ancients of Israel, which represented the whole body of the People, and even then he was made King.* So 1 Chron. 11. 3. also by the mouth of *Jehoyada* the High Priest, entred into Covenant *with the whole People of the Land in the House of the Lord*: And when the Crown was set on his Head, together with it was the Law 2 King. 11. 17. and 12. of the Testimony put into his Hand, which most expounds to be 2 Chron. 23. 3. the Law of God; likewise *Josias* promiseth *to observe and keep the Commandments, Testimonies and Statutes comprized in the Book of the* 1 Kings 23. 3. *Covenant*; under which words, are contained all which belongs to the Duties both of the first and second Table of the Law of God. In all the before remembred places of the holy Story, it is ever said, *that a Covenant was made with all the People, with all the Multitude, with all the Elders, with all the Men of Juda*: to the end that we might know, as it is also fully expressed, that not only the Principals of the Tribes, but also all the Milleniers, Centurions, and subaltern Magistrates, should meet together, each of them in the Name, and for their Towns and Communalties, to Covenant and Contract

Contract with the King. In this Assembly was the creating of the King determined of, for it was the People that made the King, and not the King the People.

It is certain then, that the People by way of stipulation, require a performance of Covenants, the King promises it. Now the condition of a Stipulator is in terms of Law more worthy than of a Promiser. The People asketh the King, whether he will govern justly and according to the Laws? He promiseth he will. Then the People answereth, and not before, that whilst he governs uprightly, they will obey faithfully. The King therefore promiseth simply and absolutely, the People upon condition: the which failing to be accomplished, the People rest according to Equity and Reason, quit from their Promise.

In the first Covenant or Contract, there is only an Obligation to piety: in the second, to Justice. In that the King promiseth to serve God religiously: in this, to rule the People justly. By the one he is obliged with the utmost of his Endeavors to procure the Glory of God: by the other, the profit of the People. In the first, there is a Condition expressed, If thou keep my Commandments: in the second, If thou distribute Justice equally to every man. God is the proper revenger of deficiency in the former, and the whole People the lawful punisher of delinquency in the latter, or the Estates, the representative Body thereof, who have assumed to themselves the protection of the People. This hath been always practised in all well-governed Estates. Amongst the *Persians*, after the due performance of Holy Rites, they contracted with *Cyrus* in manner following.

Thou, O Cyrus! in the first place, shalt promise, That if any make War against the Persians, or seek to infringe the Liberty of the Laws, thou wilt with the utmost of thy power defend and protect this Country. Which having promised, they presently add, *And we Persians promise to be aiding to keep all men in obedience, whilst thou defendest the Country.* *Zenophon* calls this agreement, *A Confederation*, as also *Isocrates* calls that which he writ of the Duties of Subjects towards their Princes, *A Discourse of Confederation.* The alliance or confederation was renewed every month between the Kings, and *Ephores* of *Sparta*, although those Kings were descended from the line of *Hercules*. And as these Kings did solemnly swear

Zenophon lib. 8. pad.

Zenoph. in tract. de repub. Lacede.

to govern according to the Laws, ſo did the *Ephores* alſo to maintain them in their Authority, whilſt they performed their promiſe. Likewiſe in the *Roman* Kingdom, there was an Agreement between *Romulus* the Senate, and the People, in this manner: *That the People ſhould make Laws, and the King look they were kept: The People ſhould decree War, and the King ſhould manage it.* Now although many Emperors, rather by Force and Ambition, than by any lawful right, were ſeas'd of the *Roman* Empire, and by that which they call a Royal *Law*, attributed to themſelves an abſolute Authority, notwithſtanding by the Fragments which remain both in Books, and in *Roman* Inſcriptions, of that Law, it plainly appears, that power and authority was granted them to to preſerve and govern the Common-wealth, not to ruine and oppreſs it by Tyranny. Nay, all good Emperors have ever profeſſed, that they held themſelves tied to the Laws, and received the Empire from the Senate, to whoſe Determination they always referred the moſt important Affairs, and eſteemed it a great Error, without their Advice to reſolve on the Occaſions of the publick State.

If we take into our Conſideration the Condition of the Empires, Kingdoms and States of times, there is not any of them worthy of thoſe names, where there is not ſome ſuch Covenant or Confederacy between the People and the Prince. It is not long ſince, that in the Empire of *Germany*, the King of the *Romans* being ready to be crowned Emperor, was bound to do Homage, and make oath of Fealty to the Empire, no more nor leſs than as the Vaſſal is bound to do to his Lord when he is inveſted with his Fee. Although the form of the Words which he is to ſwear, have been ſomewhat altered by the Popes, yet notwithſtanding the ſubſtance ſtill remains the ſame. According to which we know that *Charles* the Fifth, of the Houſe of *Auſtria*, was under certain Conditions choſen Emperor, as in the ſame manner his Succeſſors were, the Sum of which was, that he ſhould keep the Laws already made, and make no new ones without the conſent of the Electors, that he ſhould govern the publick Affairs by the Advice of the general Eſtates, nor ingage any thing that belongs to the Empire, and other matters which are particularly recited by the Hiſtorians. When the Emperor is crowned at *Aquiſ-*

Specul. Saxon. lib. 3. Vrtic. 54

grave,

grave, the Arch-bishop of *Cullen* requires of him in the first place, If he will maintain the Church, if he will distribute Justice, if he will defend the Empire, and protect Widows, Orphans and all other worthy of Compassion: The which, after he hath solemnly sworn before the Altar, the Princes also which represent the Empire, are asked if they will not promise the same; neither is the Emperor anointed, nor receives the other Ornaments of the Empire, before he have first taken that solemn Oath. Whereupon it follows, that the Emperor is tied absolutely, and the Princes of the Empire, under condition. That the same is observed in the Kingdom of *Polonia*, no man will make question, who had but seen or heard of the Ceremonies and Rites wherewith *Henry* of *Anjou* was lately chosen and crowned King of that Country, and especially then when the Condition of maintaining of the two Religions, the Reformed and the *Roman*, was demanded, the which the Lords of the Kingdom in express Terms required of him three several times, and he as often made promise to perform. The same is observed in the Kingdoms of *Bohemia*, *Hungary*, and others; the which we omit to relate particularly, to avoid Prolixity. *Sleyd. lib. 2. & 2.*

Now this manner of Stipulation is not only received in those Kingdoms where the right of Election is yet entirely observed; but even in those also which are esteemed to be simply hereditary. When the King of *France* is crowned, the Bishops of *Laon* and *Beauvois*, Ecclesiastical Peers, ask all the People there present, whether they desire and command, that he which is there before them, shall be their King? Whereupon he is said even then in the Stile of the Inauguration, to be chosen by the People; and when they have given the sign of consenting, then the King swears that he will maintain all the Rights, Priviledges, and Laws of *France* universally, that he will not aliene the Demean, and the other Articles, which have been yet so changed and accomodated to bad intentions, as they differ greatly from that Copy which remains in the Library of the Chapter of *Beauvois*, according to which it is recorded, that King *Philip*, the first of that Name, took his Oath at his Coronation; yet notwithstanding, they are not unfitly expressed: Neither is he girded with the Sword, nor anointed, nor crowned by the Peers (who at that

time wear Coronets on their Heads) nor receives the Scepter and Rod of Justice, nor is proclaimed King, before first the People have commanded it: neither do the Peers take their Oaths of Allegiance before he have first solemnly sworn to keep the Laws carefully.

And those be, that he shall not waste the publick Revenue, that he shall not of his own proper Authority, impose any Taxes, Customs, or Tributes: That he shall not make Peace or War, nor determine of State Affairs, without the advice of the Council of State. Briefly, that he should leave to the Parliament, to the States, and to the Officers of the Kingdom, their Authority intire, and all things else which have been usually observed in the Kingdom of *France*. And when he first enters any City or Province, he is bound to confirm their Privileges, and swears to maintain their Laws and Customs. This is straightly observed in the Cities of *Tholouse* and *Rochel*, and in the Countreys of *Dauphiny*, *Provence* and *Britain*: The which Towns and Provinces have their particular and expres Covenants and Agreements with the Kings, which must needs be void, if the condition expressed in the Contract be not of force, nor the Kings tied to the performance.

In Annal. Burgund.

There is the Form of the Oath of the ancient Kings of *Burgundy*, yet extant in these Words: *I will protect all men in their Rights, according to Law and Justice.*

In *England*, *Scotland*, *Sweden* and *Denmark*, there is almost the same Custom as in *France*; but in no place there is used a more discreet care in their manner of proceeding, than in *Spain*. For in the Kingdom of *Arragon*, after the finishing of many Ceremonies, which are used between him, which represents the *Justitia regni* of *Arragon*, which comprehends the Majesty of the Common-wealth, seated in a higher Seat, and the King, which is to be crowned, who swears Fealty, and does his Homage, and having read the Laws and Conditions, to the Accomplishment whereof he is sworn.

Not qui valemos tanto como vos, y podemos mas que vos, vos elegimos hoy con estas è y estas conditiones, entra vos y nos un que mondo mas que vos.

Finally, the Lords of the Kingdom use to the King these Words in the vulgar Language as is before expressed, pag. 66. *We which are as much worth as you, and have more power than you, chuse you King upon these and these Conditions, and there is one be-*

tween

tween you and us, which commands over you. But least the King should think he swore only for fashion sake, and to observe an old Custom, every third year in full assembly of the Estates, the very same words, and in the same manner are repeated unto him.

And if under pretext of his Royal Dignity he become insolent, violating the Laws, and neglect his publick Faith and promise given, then by the priviledge of the Kingdom, he is judged, excommunicated, as execrable as *Julian* the Apostate was by the Primitive Church: which excommunication is esteemed of that validity, that instead of praying for the King in their publick Orations, they pray against him, and the subjects are by the same right acquit from their Oath of Allegiance: as the Vassal is exempted from obedience and obligation by oath to his Lord which stands excommunicated; the which hath been determined and confirmed both by Act of Counsel and Decree of State in the Kingdom of *Arragon*.

In Concil. Tolet. 4. c. 74. & in Tolet. 6. lib. 2. feud. tit. 28. sect. 1.

In like manner, in the *Kingdom* of *Castile* in full assembly of the Estates, the King being ready to be *Crowned*, is first in the presence of all *advertised* of his duty: and even then are read the Articles discreetly composed for the good of the Common-wealth, the King swears he will observe and keep them carefully and faithfully; which being done, then the *Constable* takes his Oath of Allegiance, after the Princes and Deputies for the Towns swear each of them in their order; and the same is observed in the Kingdoms of *Portugal*, *Leon*, and the rest of *Spain*. The lesser Principalities have their Institution grounded on the same right. The *Contracts* which the *Brabancers* and the rest of the *Netherlanders*, together with those of *Austria*, *Carinthia*, and others, had with their Princes, were always conditional. But especially the *Brabancers*, to take away all occasion of dispute, have this express condition: which is that in the receiving of their Duke, there is read in his presence the ancient Articles, wherein is comprized that which is requisite for the publick good; and this authoris also added, that if he do not exactly and precisely observe them, they may choose what other Lord it shall seem good unto them; the which they do in express words protest unto him. He having allowed and accepted of these *Articles*, doth in that *publick Assembly* promise and solemnly swear to keep them. The which was ob-

La Joyeuse entree.

observed in the Reception of *Philip* the second, King of *Spain*. Briefly, there is not any man can deny, but that there is a Contract mutually obligatory between the King and the Subjects, which requires the People to Obey faithfully, and the King to Govern lawfully, for the performance whereof the King swears first, and after the People.

Ludovicus, Guicciard. in Descript. Belgiæ.

I would ask here, wherefore a man doth swear, if it be not to declare, that what he delivers, he sincerely intends from his Heart? Can any thing be judged more near to the Law of nature, than to observe that which we approve? Furthermore, what is the reason the *King* swears first, and at the Instance, and required by the *People*, but to accept a condition, either tacite or expressed? Wherefore is there a condition opposed to the Contract, if it be not that in failing to perform the condition, the contract, according to Law, remains void? And if for want of satisfying the Condition by right, the contract is of no force: who shall dare to call that *People* perjured, which refuseth to obey a King which makes no account of his *Perils*, which he might and ought to have kept, and wilfully breaks those Laws which he did swear to observe? On the contrary, may we not rather esteem such a King perfidious, perjured, and unworthy of his Place? For if the Law free the Vassal from his Lord, who deals feloniously with him, although that to speak properly, the Lord sweareth not Fealty to his Vassal, but he to him: if the Law of the twelve Tables doth detest & hold in execration the Patrone that defraudeth him that is under his tuition: if the civil Law permit an infranchised Servant to bring his Action against his Patron for any grievous usage: if in such cases the same Law delivers the Slave from the power of his Master, although the Obligation be natural only, and not civil: is it not much more reasonable that the *People* be loosed from that Oath of Allegiance which they have taken, if the *King* (who may be not unfitly resembled by an Attorny, sworn to look to his Clients Cause) first break his Oath solemnly taked? And what if all these Ceremonies, solemn Oaths, nay, Sacramental Promises had never been taken? Doth not Nature her self sufficiently teach, that Kings were on this condition ordained by the People, that they should govern well; Judges, that they should distribute Justice uprightly; Captains in the War, that they should lead their Armies against their Enemies? If on the contrary, they themselves forrage and spoil

L. 1. D. Act. pall. l. non minorum 20. D. de transact.

Lib. 2. Fudor. tit. 26. Sect. 24. & tit. 47. Dionys. Halic. lib. 2.

do their

their Subjects, and instead of Governors become Enemies, as they leave indeed the true and essential qualities of a King, so neither ought the people to acknowledge them for *lawful Princes*. But what if a people (you will reply) inticed by force, be compell'd by the King to take an Oath of Servitude? And what if a robber, pirate, or tyrant, (I will answer) with whom no bond of humane Society can be effectual, holding his *Dagger* to your *Throat*, constrain you presently to become bound in a great sum of money? Is it not an *unquestionable Maxim* in *Law*, that a Promise exacted by *violence* cannot bind? especially if any thing be *promised* against *common reason*, or the *Law of nature*? Is there any thing more repugnant to nature and reason, than that a people should *manicle* and *fetter* themselves, and to be obliged by promise to the Prince, with their own *hands* and *weapons* to be their own *executioners*? There is therefore a *mutual obligation* between the *King* and the *people*, which whether it be *civil* or *natural* only, whether *tacit*, or *expressed in words*, it cannot by any means be *annihilated*, or by any Law be *abrogated*, much less by force made void. And this *obligation* is of such power, that the *Prince* which *wilfully violates* it, is a Tyrant: And the People which purposely breaks it, may be justly termed seditious. *Cicer. 1. Offic.*

Hitherto we have treated of a *King*, it now rests we do somewhat more fully describe a *Tyrant*. We have shewed that he is a *King*, which lawfully governs a *Kingdom*, either derived to him by *Succession*, or committed to him by *Election*. It follows therefore that he is reputed a *Tyrant*, which as opposite to a *King*, either gains a *Kingdom* by violence, or indirect means, or being invested therewith by *lawful election*, or *succession*, governs it not according to *law* and *equity*, or neglects those *contracts* and *agreements*, to the observation whereof he was strictly obliged at his *reception*. All which may very well occurr in one and the same person. The first is commonly called a *Tyrant without Title*, the second a *Tyrant by practise*. Now it may well so come to pass, that he which possesseth himself of a *Kingdom* by force, to govern justly, and he on whom it descends by a *lawful Title*, to rule unjustly. But for so much as a *Kingdom* is rather a *right* than an *inheritance*, and an *office* than a *possession*: he seems rather worthy the name of a *Tyrant*, which unworthily acquits himself of his charge, than he which *entered* into his place by a *wrong door*. In the

Who may truly be called Tyrants? *Aristo. lib. 5. polit. c. 10.* *Bartol. in tract. de tyrannide.*

the ſame *ſence* is the *Pope* call'd an *intruder* which enter'd by indirect means into the *papacy*: and he an *abuſer* which governs *ill* in it.

Pythagoras ſays, *That a worthy ſtranger is to be preferr'd before an unworthy Citizen, yea, though he be a Kinſman.* Let it be lawful alſo for us to ſay, that a Prince which gained his Principality by indirect courſes, provided he govern according to law, and adminiſter Juſtice equally, is much to be preferred before him: which carrieth himſelf tyranouſly, although he were legally inveſted into his Government with all the Ceremonies and Rites thereunto appertaining.

For ſeeing that Kings were inſtituted to feed, to judge, to cure the Diſeaſes of the people: Certainly I had rather that a Thief ſhould feed me, than a Shepheard devour me: I had rather receive juſtice from a Robber, than out-rage from a Judge: I had better be healed by an Empirick, than poyſoned by a Doctor in Phyſick. It were much more profitable for me to have my Eſtate carefully managed by an intruding Guardian, than to have it waſted and diſſipated by one legally appointed.

Zenophon. Plutarchius in Alexand. in Æmilio, Cæſare. Livius, lib. 1. Suetonius in Cæſare, c. 75.

And although it may be that ambition was his firſt ſolicitor, to enter violently into the *Government*, yet may it perhaps appear he affected it rather to give teſtimony of his equity and moderation in governing, witneſs *Cirus*, *Alexander*, and the *Romans*, which ordinarily accorded to thoſe people they ſubdued, permiſſion to govern themſelves according to their own Laws, Cuſtoms, and Priviledges, yea, ſometimes incorporated them into the body of their own ſtate: on the contrary, the Tyrant by practice ſeems to extend the priviledge of his legal ſucceſſion, the better to execute violence and extortion, as may be ſeen in theſe days, not only by the examples of the *Turks* and *Muſcovites*, but alſo in divers Chriſtian Princes: therefore the act of one which at the firſt was ill, is in ſome reaſonable time rectified by juſtice: whereas the other like an inveterate Diſeaſe, the elder it grows, the worſe it affects the Patient.

Auguſt. in lib. 4. c. 4. de civi. dei.

Now if according to the ſaying of Saint *Auguſtine*, thoſe Kingdoms where Juſtice hath no place, are but a rapſody of free-booters; they are in that, both the Tyrant without title, and he by practiſe alike, for that they are both Thieves, both Robbers, and both unjuſt poſſeſſors, as he certainly is no leſs an unjuſt detainer which takes another Mans Goods againſt the

Owners

owne will, than he which employs it ill, when it was taken before.

But the fault is without comparison, much more greater of him which possesseth an estate for to ruine it, than of the other which made himself Master of it to preserve it.

Briefly, the Tyrant by practise vainly colouring his unjust extortions with the justice of his Title, is much more blameable than the Tyrant without Title, who recompenceth the violence of his first intrusion in a continued course of a legal and upright Government.

Tyrants without Title.

But to proceed, there may be observed some difference amongst Tyrants without Title: for there are some which ambitiously invade their neighbours Countries, to enlarge their own, as *Nimrod*, *Ninus*, and the *Cæsarines* have done. Although such are term'd Kings by their own people, yet to those on whose confines they have encroached without any just right, or occasion, they will be accounted Tyrants.

Tyrants by practise.

There be others which having attained to the government of an elective Kingdom, that endeavour by deceitful means, by corruption, by present, and other bad practises, to make it become hereditary. For witness whereof, we need not make search into elder times; these are worse than the former, for so much as fairer fraud, as *Cicero* saith, *is ever more odious than open force.*

There be also others which are so horribly wicked, that they seek to extirpat their own native Countrey like the viperous brood which gnaw through the entrails of their Mother: as be those Generals of Armies created by the People, who afterwards by the means of those forces make themselves masters of the Stage, as *Cæsar* at *Rome* under pretence of the Dictatorship and divers Princes of *Italy*.

There be women also which intrude themselves into the Government of those Kingdoms which the Laws only permit to the Males, and make themselves Queens and Regents, as *Athalia* did in *Judah*, *Semiramis* in *Assyria*, *Agrippina* in the *Roman* Empire in the Reign of her Son *Nero*, *Mamæa* in *Alexander Severus* his time, *Semiramis* in *Hungaria*, and certain *Brunichildes* in the Kingdom of *France*, who so educated their Sons as the Queens of the house of *Medicis* in these latter times, during their minority,

that attaining to more maturity, their only care was to glut themselves in pleasures and delights: so that the whole management of affairs remain'd in the hands of their Mothers, or of their Minions, Servants and Officers. Those also are Tyrants without Title, who taking advantage of the sloath, weakness, and dissolute courses of those Princes which are otherwise lawfully instituted, and seeking to entrap them in a sleepy dream of voluptuous idleness (as under the *French* Kings, especially those of the *Merovingian* line, some of the Mayors of the Palace have been advanced to that dignity for such egregious services) transferring into their own command all the Royal Authority, and leaving the King only the bare Name. All which Tyrants are certainly of this condition, that if for the manner of their Goverment they are not blameable. Yet for so much as they entered into that jurisdiction by tyrannous intrusion, they may justly be termed Tyrants without Title.

Tyrants by practise.

Concerning Tyrants by practise, it is not so easie to describe them as true Kings. For reason rules the one, and selfwill the other: the first prescribes bounds to his affections, the second confines his desires within no limits, what is the proper Rights of Kings may be easily declared, but the outragious insolences of Tyrants cannot without much difficulty be express'd. And as a right angle is uniform, and like to it self one and the same: so an oblique diversifies it self into various and sundry species. In like manner is justice and equity simple, and may be deciphered in few words: but justice and injury are divers, and for their sundry accidents not to be so easily defined; but that more will be omitted then exprest. Now although there be certain rules by which these Tyrants may be represented, (though not absolutely to the life) yet notwithstanding there is not any more certain than by conferring and comparing a Tyrants fraudulent sleights with a Kings vertuous actions.

A Tyrant lops off those Ears which grow higher then the rest of the Corn, especially where Vertue make them most conspicuously eminent, oppresseth by calumnies, and fraudulent practises, the principal Officers of the State, giveth out reports of intended conspiracies against himself, that he might have some colourable pretext to cut them off, witness *Tiberius, Maximinus*, and others, which spared not their own Kinsmen, Cousins, and Brothers.

The King on the contrary doth not only acknowledge his brothers to be as it were consorts unto him in the Empire: but also holds in the place of brothers all the principal Officers of the Kingdom, and is not ashamed to confess that of them (inquality as deputed from the general Estates) he holds the Crown.

The Tyrant advanceth above and in opposition to the ancient and worthy Nobility, mean and unworthy persons; to the end that these base fellows being absolutely his creatures, might applaud and apply themselves to the fulfilling of all his loose and unruly desires. The King maintains every man in his Rank, honours and respects the Grandees as the Kingdoms friends, desiring their good as well as his own.

The Tyrant hates and suspects discreet and wise men, and fears no opposition more than virtue, his being conscious of his own vitious courses, and esteeming his own security to consist principally in a general corruption of all estates, introduceth multiplicity of Taverns, Gaming-houses, Masks, Stage-plays, Brothel-houses, and all other licentious superfluities that might effeminate and bastardize noble Spirits, as *Cyrus* did, to weaken and subdue the *Sardians*: The King on the contrary allureth from all places honest and able men, and encourageth them by Pensions and Honours; and for Seminaries of vertue, erects Schools and Universities in all convenient places.

A Tyrant as much as in him lies, is abhors or avoids all publick Assemblies, fears Parliaments, Diets and meetings of the general Estates, flies the light, affecting (like the Bat) to converse only in darkness; yea, he is jealous of the very gesture, countenance, and discourse of his Subjects. The King because he converses always as in the presence of Men and Angels, glories in the multitude, and sufficiency of his Councellors, esteeming nothing well done which is ordered without their advice, and is so far from doubting or disliking the publick meeting of the general Estates, as he honours and respects those Assemblies with much favour and affection.

A Tyrant nourisheth and stirreth factions and dissensions amongst his Subjects, ruins one by the help of another, that he may the easier vanquish the remainder, advantaging himself by this division, like those dishonest Surgeons which lengthen out their cures. Briefly, after the manner of that abominable *Vitellius*, he is not ashamed to say, that the Carkass of a dead Enemy,

Machiavil in principe.

Arist. lib. 5. c. 11. polit.

especially a Subjects, yields a good savour. On the contrary, a good King endeavours always to keep Peace amongst his Subjects, as a father amongst his children, choak the seeds of troubles, and quickly heals the Scar; the execution even of justice upon Rebels, drawing tears from his compassionate eyes; yea, those whom a good King maintains and defends against a forrain enemy, a tyrant (the enemy of nature) compels them to turn the points of their Swords into their own proper intrals. A tyrant fils his Garrisons with strange Soldiers, builds Cittadels against his Subjects, disarms the people, throws down their Forts, makes himself formidable with guards of strangers, or men only fit for pillage and spoyl, gives Pensions out of the publick Treasury to spies and calumniating informers, disperst through all Cities and Provinces. Contrariwise, a King reposeth more his safety in the love of his Subjects, than in the strength of his Fortresses against his enemies, taking no care to inroll Soldiers, but accounts every Subject as a Man at Arms to guard him, and builds Forts to restrain the irruptions of forrain enemies, and not to constrain his Subjects to obedience, in whose fidelity he putteth his greatest confidence. Therefore it is that tyrants, although they have such numberless guards about them to drive off throngs of people from approaching them, yet cannot all those numbers secure them from doubts, jealousies and distrusts, which continually afflict and terrifie their timerous consciences: yea, in the midst of their greatest strength, the Tyrannizer of Tyrants, Fear, maketh prize of their Souls, and there triumphs in their affliction. A good King in the greatest concourse of people, is freest from doubts or fears, nor troubled with sollicitous distrusts in his sollitary retirements, all places are equally secure unto him, his own conscience being his best guard. If a tyrant want civil broyls to exercise his cruel dispositions in, he makes Wars abroad; erects idle and needless Trophees to continually imploy his tributaries, that they might want leisure to think on other things, as *Pharaoh* did the *Jews*, and *Polycrates* the *Samians*; therefore he always prepares for, or threatens War, or at least seems so to doe, and so still rather draws mischief on, than puts it further off. A King never makes war, but compell'd unto it, and for the preservation of the publick; he never desires to purchase advantage by treason, he never entreth into any War, that exposeth the Commonwealth to more danger than it affordeth probable hope of commodity.

Livi lib. 2. c. 1. Dionys. Halic. l. 5. de Asunte filio postuma.

Prov. 14. 28.

Bartol. in tract de tyrannide.

Ægid. Rom. de reg. prin.

Cicero de Offic. lib. 1.

A Tyrant leaves no design unattempted by which he may fleece his Subjects of their substance, and turn it to his proper benefit, that being continually troubled in gaining means to live, they may have no leisure no hope how to regain their liberty: On the contrary, the King knows that every good Subjects purse will be ready to supply the Commonwealths occasion, and therefore believes he is possest of no small treasure, whilst through his good Government his Subjects flow in all abundance.

A Tyrant extorts unjustly from many to cast prodigally upon two or three Minions, and those unworthy; he imposeth on all: and exacteth from all, to furnish their superfluous and riotous expences: he builds his own, and followers fortunes on the ruins of the publick: he draws out the peoples blood, by the Veins of their means, and gives it presently to carouse to his Court-leeches. But a King cuts off from his ordinary expences, to ease the peoples necessities, neglecteth his private state, and furnisheth with all magnificence the publick occasions; briefly is prodigal of his own blood, to defend and maintain the people committed to his care.

If a Tyrant as heretofore *Tiberius, Nero, Commodus* and others, did suffer his Subjects to have some breathing time from unreasonable exactions, and like Spunges to gather some moisture, it is but to squeeze them out afterwards to his own use: on the contrary, if a King do sometimes open a vein, and draw some blood, it is for the peoples good, and not to be expended at his own pleasure in any dissolute courses. And therefore as the holy Scripture compares the one to a *Shepherd*, so doth it also resemble the other to a roaring *Lyon*, to whom notwithstanding the *Fox* is oftentimes coupled. For a Tyrant as says *Cicero*, is *culpable in effect of the greatest injustice that may be imagined, and yet he carrieth it so cunningly, that when he most deceives, it is then that he maketh greatest appearance to deal sincerely.* And therefore doth he artificially counterfeit Religion and devotion, wherein saith *Aristotle*, he *expresseth one of the most absolute subtleties that Tyrants can possibly practise: he doth so compose his countenance to piety, by that means to terrifie the people from conspiring against him; who they may well imagine to be especially favoured of God, expressing in all appearance so reverently to serve him.* He faines also to be exceedingly affected to the publick good; not so much for the love of it, as for fear of his own safety.

Prov. 8. 15.

Cicer. de Offic. lib. 1.

Arist. lib. 5. polit. c. 11.

Furthermore he desires much to be esteemed just, and loyal in some Affairs, purposely to deceive and betray more easily in matters

ters of greater consequence: much like those thieves which maintain themselves by Thefts and Robberies, cannot yet long subsist in their Trade, without exercising some parcel of justice in their proceedings. He also counterfeits the merciful, but it is in pardoning of such Malefactors, in punishing whereof he might more truly gain the reputation of a pitiful Prince.

To speak in a word, that which the true King is, the Tyrant would seem to be, and knowing that men are wonderfully attracted with, and inamoured of vertue, he endeavours with much subtilty to make his Vices appear yet masked with some shadow of vertue: but let him counterfeit never so cunningly, still the Fox will be known by his Tail: and although he fawn and flatter like a Spannel, yet his snarling and grinning will ever bewray his currish kind.

Tho. Aquin. in secund. q. 12. art. 11.

Furthermore, as a well-ordered Monarchy partakes of the principal Commodities of all other Governments: So on the contrary, where Tyranny prevails, there all the discommodities of confusion are frequent.

A Monarchy hath in this, conformity with an Aristocracy, that the most able and discreet are called to Consultations: Tyranny and Oligarchy accord in this, that their Councels are composed of the worst and most corrupted. *And as in the Council Royal, there may in a sort seem many Kings to have interest in the Government, so in the other on the contrary, a multitude of Tyrants always domineers.*

The Monarchy borrows of the popular Government the Assemblies of the Estates, whither are sent for Deputies the most sufficient of Cities and Provinces, to deliberate of, and determine matters of State: the Tyranny takes this of the Ochlocracy, that if she be not able to hinder the Convocation of the Estates, yet will she endeavour by factious subtilties and pernicious Practices, that the greatest Enemies of Order and Reformation of the State be sent to those Assemblies, the which we have known practised in our times. In this manner affirmes the Tyrant the Countenance of a King, and Tyranny the semblance of a Kingdom, and the continuance succeeds commonly according to the dexterity wherewith it is managed: yet, as *Aristotle* says, *we shall hardly read of any Tyranny that hath subsisted a hundred years: briefly the King principally regards the publick utility, and a Tyrants chiefest care is for his private Commodity.*

But seeing the condition of men is such, that a King is with much difficulty

difficulty to be found, that in all his actions only aspireth at the publique good, and yet cannot long subsist without expression of some special care thereof, we will conclude that where the Common-wealths advantage is most preferr'd, there is both a lawful King and Kingdom; and where particular lusts and private ends prevail against the publique profit, there questionless is a Tyrant and Tyranny.

Thus much concerning Tyrants by practise, in the examining whereof we have not altogether fixed our discourse on the loose disorders of their wicked and licentious lives a, which some say is the character of a bad Man: but not always of a bad Prince. If therefore the Reader be not satisfied with this description, besides the more exact representations of Tyrants which he shall find in Histories he may in these our days behold an absolute model of many living and breathing Tyrants: whereof *Aristotle* in his time did much complain. Now at the last we are come as it were by degrees to the chief and principal point of the question. We have seen how that Kings b have been chosen by God, either with relation to their Families or their persons only, and after installed by the People: In like manner what is the duty of the King, and of the Officers of the Kingdom, how far the authority, power, and duty both of the one and the other extends, and what and how sacred are the Covenants and Contracts which are made at the inauguration of Kings, and what Conditions are intermixt, both tacite and express'd; finally who is a Tyrant without Title, and who by practise, seeing it is a thing unquestionable that we are bound to obey a lawful King, which both to God and People carrieth himself according to those Covenants whereunto he stands obliged, as it were to God himself, seeing in a sort he represents his divine Majesty. It now follows that we treat, how, and by whom a Tyrant may be lawfully resisted, and who are the persons that ought to be chiefly actors therein, and what course is to be held, that the action may be manag'd according to right & reason: we must first speak of him which is commonly called a Tyrant without Title. Let us suppose then that some *Nimrod* having neither received outrage nor offence, invades a people over whom he hath no colour of pretension: that *Cæsar* seeks to oppress his Country, c and the *Roman* Common-wealth: that *Popelan* endeavours by Murthers and Treasons to make the Elective Kingdom of *Polonia* to become hereditary

a *Bartol in Tract. de tiran. & de regim. Civi.*

b To whom it belongs to resist and suppress Tyrants without Title.

c *Otto Frising. Chron. l. 3. c. 7.*

Aimoin. lib. 4. c. 1. Greg. Turon. lib. 4. c. 51. & 5. c. 29. lib. 8. c. 29.

hereditary to him and his posterity; or some *Brunichilde* drawn to her self and her Protadius the absolute Government of *France*: or *Ebronius* taking advantage of *Theodericks* weakness and idleness, gaineth the entire administration of the State, and oppresseth the People, what shall be our lawful refuge herein?

Still, the Law of Nature teacheth and commandeth us to maintain and defend our lives and liberties, without which life is scarce worth the enjoying, against all injury and violence. Nature hath imprinted this by instinct in Dogs against Wolves, in Bulls against Lions, betwixt Pigeons and Spar-hawks, betwixt Pullen and Kites, and yet much more in Man against Men himself. If Man become a Beast, and therefore he which questions the lawfulness of defending ones self, doth as much as in him lies question the Law of Nature. To this must be added the Law of Nations, which distinguisheth Possessions and Dominions, fixes limits, and makes out confines, which every Man is bound to defend against all Invaders. And therefore it is no less lawful to resist *Alexander* the Great, if without any right or being justly provoked, he invades a Country with a mighty Navy; as well as *Diomedes* the Pirate which scours the Seas in a small Vessel. For in this case *Alexanders* right is no more than *Diomedes* his, but only he hath more power to do wrong, and not so easily to be compell'd to reason as the other. Briefly, one may as well oppose *Alexander* in pillaging a Country, as a Thief in purloining a Cloak, as well him when he seeks to batter down the Walls of a City, as a Robber that offers to break into a private house. There is besides this, the Civil Law, or municipal Laws of several Countries which governs the Societies of men, by certain rules, some in one manner, some in another; some submit themselves to the Government of one man, some to more; others are ruled by a whole Commonalty, some absolutely exclude Women from the Royal Throne, others admit them, these here chuse their King descended of such a Family, those there make Election of whom they please, besides other Customs practised amongst several Nations. If therefore any offer either by fraud or force to violate this Law, we are all bound to resist him, because he wrongs that Society to which we owe all that we have, and would ruin our Country, to the preservation whereof all men by statute, by law and by solemn Oath are strictly obliged; insomuch that first or negligence, or bad purpose, make us omit

this

this duty, we may justly be accounted breakers of the Laws, betrayers of our Countrey, and contemners of Religion. Now as the Law of Nature, of Nations, and the civil commands us to take Arms against such Tyrants; so is there not any manner of Reason that should perswade us to the contrary; neither is there any Oath, Covenant, or Obligation, publick or private, of power justly to restrain us; therefore the meanest private Man may resist and Lawfully oppose such an Intruding Tyrant. The Law *Julia*, which condemns to death those that raise Rebellion against their Countrey or Prince, hath here no place; for he is no Prince, which without any Lawful Title Invadeth the Common-wealth, or Confines of another; nor he a Rebel, which by Arms defends his Countrey; but rather to this had relation the Oath which all the Youth of *Athens* were accustomed to take in the Temple of *Aglaura*, I will Fight for Religion, for the Laws, for the Altars, and for our Possessions, either alone, or with others; and will do the utmost of my Endeavour, to leave to posterity our Countrey, at the least, in as good estate as I found it. To as little purpose can the Laws made against Seditious Persons be alledged here; for he is Seditious which undertakes to defend the People, in Opposition of order and publick Discipline; but he is no raiser, but a suppressor of Sedition, which restraineth within the Limits of Reason, the subverter of his Countreys Welfare, and publick Discipline.

L. ult. D. ad leg. Jul. Majestatis.

Bartol. in tract. de Guelph. & Gibellin.

On the contrary to this, hath proper relation the Law of *Tyrannicides*, which honours the living with great and memorable recompences, and the dead with worthy Epitaphs, and glorious Statues, that have been ther Countreys Liberators from Tyrants; as *Harmodius* and *Aristogiton* at *Athens*, *Brutus* and *Cassius* in *Greece*, and *Aratus* of *Sycione*. To these by a publick Decree were erected Statues, because they delivered their Countreys from the Tyranies of *Pisistratus*, of *Cæsar*, and of *Nitocles*. The which was of such Respect amongst the Antients, that *Xerxes* having made himself Master of the City of *Athens*, caused to be transported into *Persia* the Statues of *Harmodius* and *Aristogiton*; afterwards *Seleucus* caused them to be returned into their former place: and as in their passage they came by *Rhodes*, those famous Citizens entertained them with publick and stupendious solemnities; and during their abode there, they placed them in the choicest sacrestries of their gods. But the Law made against Forsakers, and Traytors,

Plin. lib. 4. Alexand. ab Alex. lib. 6. cap. 4.

Xiphilin. in vita August.

Plutarch. in Arato.

Valer. Maxim. lib. 2. c. ultim.

takes absolutely hold on those which are negligent and careless to deliver their Countrey oppressed with Tyranny, and condemns them to the same punishment, as those Cowardly Soldiers, which when they should Fight, either counterfeit Sickness, or cast off their Arms and run away. Every one therefore both in general and particular, ought to yield their best assistance unto this: as in a publick Fire, to bring both Hooks, and Buckets and Water; we must not ceremoniously expect that the Captain of the Watch be first called, nor till the Governour of the Town be come into the Streets; but let every man draw Water and climb to the House-top; it is necessary for all men that the Fire be quenched. For if whilst the *Gaules* with much silence and vigilancy seek to scale and surprise the *Capitoll*, the Soldiers be drowsie with their former pains, the Watch buried in sleep, the Dogs fayl to bark, then must the Geese play the Sentinels, and with their gagling noise, give an Alarm. And the Soldiers and Watch shall be degraded, yea, and put to death: The Geese for perpetual remembrance of this deliverance, shall be always fed in the *Capitoll*, and much esteemed.

L. 3 & 7. Omne delictum. ff. ult. D. de re milit.

This of which we have spoken, is to be understood of a Tyranny not yet firmly rooted, to wit, whilst a Tyrant conspires, machinates, and lays his plots and practises. But if he be once so possessed of the State, and that the People being subdued, promise and swear obedience; the Common-wealth being oppressed, resign their authority into their hands; and that the Kingdom in some formal manner, consent to the changing of their Laws; for so much certainly as men, he hath gained a title which before he wanted, and seems to be as well a legal as actual possessor thereof, although this Yoke were laid on the Peoples Neck by compulsion, yet must they quietly and peaceably rest in the will of the Almighty, who at his pleasure transfers Kingdoms from one Nation to another; otherways there should be no Kingdom, whose Jurisdiction might not be disputed: And it may well chance, that he which before was a Tyrant without Title, having obtained the Title of a King, may free himself from any Tyrannous Imputation, by governing those under him with Equity and Moderation. Therefore then as the People of *Juria*, under the Authority of King *Ezechias*, did Lawfully resist the Invasion of *Senacherib* the *Assyrian*: So on the contrary was *Zedechias* and all his Subjects

2 Kings 24. and 25. Ierem. 37.

jects worthily punished, because that without any just occasion, after they had done homage and sworn fealty to *Nebuchadnezzar*, they rise in Rebellion against him. For after promise of Performance, it is too late to repent. And as in battles every one ought to give Testimony of his Valour, but being taken Prisoner, must faithfully observe Covenants; so it is requisite, that the People maintain their Rights by all possible means; but if it chance that they be brought into the subjection of anothers Will, they must then patiently support the dominion of the Victor. So did *Pompey*, *Cato* and *Cicero*, and others, perform the parts of good Patriots then when they took Arms against *Cæsar*, seeking to alter the government of the State; neither can those be justly excused, whose base fear hindred the happy success of *Pompey* and his partakers noble designs. *Augustus* himself is said to have reproved one who railed on *Cato*, affirming that he carried himself worthily and exceedingly affected to the greatness of his Country, in couragiously opposing the Alteration which his Contraries sought to introduce in the Government of the State; seeing all innovations of that Nature, are ever Authors of much Trouble and Confusion.

Furthermore, No man can justly reprehend *Brutus*, *Cassius*, and the rest who killed *Cæsar* before his Tyrannical Authority had taken any firm rooting. And so were there Statues of Brass Erected in honour of them by publick decree at *Athens*, and placed by those of *Harmodius* and *Aristogiton*, then when after the dispatching of *Cæsar* they retired from *Rome*, to avoid *Mar. Antonie* and *Augustus* their revenge. But *Cinna* was certainly guilty of sedition, who after a legal transferring of the Peoples power into the hands of *Augustus*, is said to conspire against him. Likewise when the *Pepins* sought to take the Crown of *France* from the *Merovingians*: as also when those of the line of *Capet* endeavoured to supplant the *Pepins*, any might lawfully resist them without incurring the Crime of Sedition: But when by publick Counsel and the Authority of the Estates, the Kingdom was transferred from one family to another, it was then unlawful to oppose it. The same may be said, if a Woman possess her self of the Kingdom, which the Sallick Law absolutely prohibites, or if one seek to make a Kingdom wholly Elective, hereditary to his offspring, while those Laws stand in force, and are unrepealed by

the Authority of the general Estates, which represent the body of the People. Neither is it necessary in this respect, to have regard whether faction is the greater, more powerful or more illustrious. Always those are the greater number who are led by Passion, than those that are ruled by Reason, and therefore tyranny hath more servants than the Common-wealth. But *Rome* is there according to the saying of *Pompey*, where the Senate is, and the Senate is where there is obedience to the Laws, love of Liberty, and studious carefulness for the Countries Preservation. And therefore, though *Brennus* may seem to be Master of *Rome*, yet notwithstanding is *Rome* at veies with *Camillus*, who prepares to deliver *Rome* from bondage. It behooves therefore all true *Romans* to repair to *Camillus*, and assist his Enterprize with the utmost of their power and endeavours. Although *Themistocles*, and all his able and worthiest Companions leave *Athens*, and put to Sea with a Navy of two hundred Gallies, notwithstanding it cannot be said, that any of these men are banished *Athens*, but rather, as *Themistocles* answered, These two hundred Gallies are more useful for us, than the greatest City of all *Greece*; for that they are armed, and prepared for the defence of those which endeavour to maintain and uphold the publick State.

Plutarch. in vita Them.

But to come to other examples; it follows not that the Church of God must needs be always in that place where the Ark of the Covenant is; for the *Philistines* may carry the Ark into the Temples of their Idols. It is no good Argument, that because we see the *Roman Eagles* waving in Ensigns, and hear their Legions named, that therefore presently we conclude, that the Army of the *Roman* Common-wealth is there present; for there is only, and properly the Power of the State where they are assembled, to maintain the liberty of the Country against the ravenous oppression of Tyrants, to infranchise the People from servitude, and to suppress the impudency of insulting flatterers, who abuse the Princes weakness by oppressing his Subjects for the advantaging of their own fortunes, and contain ambitious Minds from enlarging their desires beyond the limits of Equity and Moderation. Thus much concerning Tyrants without Title.

What may lawfully be done against Tyrants by practise.

But for Tyrants by practise, whether they at first gained their Authority, by the Sword, or were legally invested therewith by a general consent: It behooves us to examine this point with much

weary

wary circumspection. In the first place we must remember, that all Princes are born men, and therefore reason and passion are as hardly to be separated in them, as the Soul is from the body whilst the man liveth: We must not then expect Princes absolute in perfection, but rather repute our selves happy if those that govern us be indifferently good. And therefore although the Prince observe not exact mediocrity in State-Affairs; if sometimes Passion over-rule his reason, if some careless Omission, make him neglect the Publick Utility; or if he do not always carefully execute Justice with Equality, or repulse not with ready Valour an invading enemy; he must not therefore be presently declared a Tyrant. And certainly, seeing he rules not as a God over men, nor as men over beasts, but is a Man composed of the same matter, and of the same nature with the rest: As we would questionless judge that Prince unreasonably insolent, that should insult over and abuse his Subjects; as if they were bruit Beasts; so those People are doubtless as much void of Reason, which imagine a Prince should be compleat in Perfection, or expect divine abilities in a nature so frail and subject to Imperfections. But if a Prince purposely Ruine the Common-weal, if he presumptuously pervert and resist Legal Proceedings, or Lawfull Rights, if he make no reckoning of Faith, Covenants, Justice nor Piety, if he Prosecute his Subjects as Enemies; briefly, If he express all or the chiefest of those wicked Practises we have formerly spoken of; then we may certainly declare him a Tyrant, which is as much as an Enemy both to God and Men. We do not therefore speak of a Prince less good, but of one absolute bad; not of one less wise, but of one Malicious and Treacherous; not of one less able judiciously to discuss Legal Differences, but of one perversly bent to pervert Justice and Equity; not of an unwarlike, but of one furiously disposed to ruine the People, and ransack the State. For the Wisdom of a Senate, the Integrity of a Judge, the Valour of a Captain, may peradventure enable a weak Prince to Govern well: But a Tyrant could be content that all the Nobility, the Councellors of State, and Commanders for the Wars, had but one head that he might take it off at one blow: those being the proper objects of his distrust and fear, and by consequence the principal subjects on whom he desires to execute his Malice and Cruelty. A Foolish Prince, although (to speak according to right

and

and Equity) he ought to be deposed, yet may he perhaps in some sort be born withal: But a Tyrant the more he is tollerated, the more he becomes intollerable.

Furthermore, as the Princes pleasure is not always law, so many times it is not expedient that the People doe all that which may lawfully be done: for it may often-times chance, that the Medicine proves more dangerous than the Disease. Therefore it becomes wise men, to try all ways before they come to blows, to use all other remedies before they suffer the Sword to decide the Controversie. If then those which represent the Body of the People, foresee any Innovation or Machination against the State, or that it be already embarqued into a course of Perdition; their duty is, first to admonish the Prince, and not to attend, that the disease by accession of time and accidents, becomes unrecoverable. For Tyranny may be properly resembled unto a Feaver Hectick, the which at the first is easie to be cured, but with much difficulty to be known; but after it is sufficiently known, it becomes uncurable. Therefore small beginnings are to be carefully observed, and by those whom it concerns diligently prevented.

If the Prince therefore persist in his violent courses, and contemn frequent admonitions, addressing his designs only to that end, that he may oppress at his pleasure, and effect his own desires without fear or restraint; he then doubtless makes himself liable to that detested crime of *Tyranny*: and whatsoever either the law, or lawful authority permits against a Tyrant, may be lawfully practised against him. Tyranny is not onely a will, but the chief, and as it were the complement and abstract of vices. A Tyrant subverts the State, pillages the people, lays stratagems to entrap their lives, breaks promise with all, scoffs at the sacred Obligations of a solemn Oath, and therefore is he so much more vile than the vilest of usual Malefactors, by how much offences committed against a generality, are worthy of greater punishment than those which concern only particular and private persons. If Thieves and those that commit Sacriledge, be declared Infamous; nay, if they justly suffer Corporal punishment by Death, can we invent any that may be worthily equivalent for so outragious a Crime?

Further more, we have already proved, that all Kings receive their

their Royal Authority from the people, that the whole people consider'd in one body, is above and greater than the King; and that the King and Emperour are only the prime and supream Governours and Ministers of the Kingdom and Empire; but the People the absolute Lord and Owner thereof. It therefore necessarily follows, that a Tyrant is in the same manner guilty of rebellion against the Majesty of the people, as the Lord of a fee, which Feloniously transgress the Conditions of his Investitures, and is liable to the same punishment, yea, and certainly deserves much more greater than the equity of those Laws inflict on the delinquents. Therefore as *Bartolus* says, He may either be deposed by those which are Lords in Soveraignty over him, or else justly punished according to the Law *Julia*, which condemns those which offer Violence to the publick. The body of the people must needs be the Soveraign of those which represent it, which in some places are the Electors, Palatines, Peers; in other, the Assembly of the general Estates. And if the Tyranny have gotten such sure footing, as there is no other means but force to remove him; then it is lawful for them to call the people to Arms, to inroll and raise Forces, and to imploy the utmost of their power, and use against him all advantages and stratagems of War, as against the Enemy of the Common-wealth, and the Disturber of the Publick Peace. Briefly, the same sentence may be justly pronounced against him, as was against *Manlius Capitolinus* at *Rome*. *Thou wast to us Manlius, when thou didst trouble down the Gaules that scaled the Capitole: But since thou art now become an Enemy, like one of them, thou shalt be precipitated down from the same place from whence thou formerly trumbledst those Enemies.*

In tract. de tyran. & in tract. de Regim civit.

Valerius lib. 9. c. 3.

The Officers of the Kingdom cannot for this be rightly taxed of Sedition; for in a Sedition there must necessarily concur but two parts, or sides, the which peremptorily consist together, so that it is necessary that the one be in the right, and the other in the wrong: That part undoubtedly hath the right on their side, which defends the Laws, and strives to advance the publick profit of the Kingdom. And those on the contrary are questionless in the wrong, which break the Laws, and protect those that violate Justice, and oppress the Common-wealth. Those are certainly in the right way, as said *Bartolus*, which endeavour to suppress Tyrannical Government, and those in the wrong, which oppose

Bart. in tract. de Guelph. & Gibell. arg. l. 3. Sect. comigitur D. de vi & viar.

pose lawful authority: And that must ever be accounted just, which is intended only for the publick benefit, and that unjust, which aims chiefly at private commodity. Wherefore *Thomas Aquinas* saith, *That a tyrannical rule having no proper address for the publick welfare, but only to satisfie a private will, with increase of particular profit to the ruler, cannot in any reasonable construction be accounted lawful, and therefore the disturbance of such a Government cannot be esteemed Seditious, much less Traytors*; for that offence hath proper relation only to a lawful Prince, who indeed is an inanimated or speaking Law; therefore seeing that he which employs the utmost of his means and power to annihilate the Laws, and quell their vertue and vigour, can no ways be justly Intituled therewith: So neither likewise can those which oppose and take Arms against him, be branded with so notorious a Crime. Also this offence is committed against the Common-wealth; but for so much as the Common-wealth is there only where the Laws are in force, and not where a Tyrant devours the State at his own pleasure and liking, he certainly is quit of that Crime which ruins the Majesty of the publique State, and those questionless are worthily protectors and preservers of the Common-wealth, who confident in the lawfulness of their Authority, and summoned thereunto by their duty, do couragiously resist the unjust proceedings of the Tyrant.

Tho. Aquin. sec. secund. q. 12. art. 1. in fine.

L. 1. D. ad leg. Iul. majest.

Cic. parad. 4.

And in this their Action we must not esteem them as private Men and Subjects, but as the representative body of the People, yea, and as the Soveraignty it self, which demands of his Minister an account of his Administration. Neither can we in any good reason account the Officers of the Kingdom Disloyal, who in this manner acquit themselves of their charge.

There is ever, and in all places, a mutual and reciprocal obligation between the People and the Prince; the one promiseth to be a good and wise Prince, the other to obey faithfully, provided he Govern justly. The People therefore is obliged to the Prince under condition: The Prince to the People simply and purely. Therefore if the Prince fail in his Promise, the People is exempt from Obedience, the Contract is made void, the Right of Obligation of no force. Then the King if he Govern unjustly, is Perjur'd, and the People likewise Forsworn if they obey not his lawful commands: But that People is truly acquit from all Perfidiousness,

which

which publickly renounce the unjust dominion of a Tyrant, or he striving unjustly by strong hand to continue the possession, do constantly endeavour to expulse him by force of Arms.

It is therefore permitted the Officers of a Kingdom, either all, or some good number of them, to suppress a Tyrant; and it is not only lawful for them to do it, but their Duty expresly requires it; and if they do it not, they can by no excuse colour their Baseness. For the *Electors*, *Palatines*, *Peers*, and other Officers of State, must not think they were established only to make pompous Paradoes and Shows, when they are at the Coronation of the King, habited in their Robes of State, as if there were some Masque or Interlude to be represented; or as if they were that day to act the parts of *Roland*, *Oliver*, or *Renaldo*; and such other personages on a Stage, or to counterfeit and revive the memory of the Knights of the round Table; and after the dismissing of that days Assembly, to suppose they have sufficiently acquit themselves of their Duty, until a recess of the like solemnity. Those solemn Rites and Ceremonies were not instituted for vain ostentation, nor to pass, as in a dumb show, to please the Spectators, not in Childrens sports, as it is with *Horace*, to create a King in jest; but those Grandees must know, that as well for Office and Duty, as for Honour, they are called to the performance of those Rites, and that in them, the Common-wealth is committed and recommended to the King, as to her supream and principal Tutor and Protector, and to them as Co-adjutors and Assistants to him: and therefore, as the Tutors or Guardians (yea, even those that are appointed by way of honour) are chosen to have care of & observe the actions and imployments of him which holds the principal rank in the Tutorship, and to look how he carrieth himself in the Administration of the goods of his Pupil: So likewise are the former ordained to have an Eye to the courses of the King, for with an equivalent Authority, as the others for the Pupil, so are they to hinder and prevent the Damage and Detriment of the People, the King being properly reputed as the prime Guardian, and they his Co-adjutors.

In like manner, as the faults of the principal Tutor, who manages the Affairs, are justly imputed to the Co-adjoyns in the Tutorship, if when they ought and might, they did not discover his Errors, and cause him to be deposed, especially failing in the main

L. 106. D. de reg. jur.

Vip. l. 3. D. de adm. & peric. tut. & curat.

L. 27. D. com.

L. 14. D. de administ. et peric. tut. l. 3 D. de suspec. tut. & cur.

points of his charge, to wit, in not communicating unto them the affairs of his administration, in dealing unfaithfully in his place, in doing any thing to the dishonour or detriment of his Pupil, in imbesilling of his Goods or Estate, or if he be an Enemy to his Pupil, briefly, if either in regard of the worthlesnes of his Person, or weakness of his judgment, he be unable well to discharge so weighty a charge. So also are the Peers and principal Officers of the Kingdom accountable for the Government thereof, & must both prevent, and if occasion require, suppress the Tyranny of the Prince, as also supply with their care and diligence, his inability and weakness.

Finally, If a Tutor omitting or neglecting to do all that for his Pupil, which a discreet Father of a family, would and might conveniently perform, cannot well be excused, and the better acquitting himself of his charge, hath others as concealers and Associates, joyned with him to oversee his actions, with much more reason may, and ought the Officers of the Crown restrain the violent irruptions of that Prince, who instead of a Father, becomes an Enemy to his People; seeing to speak properly, they are as well accountable for his actions wherein the publick hath Interests, as for their own.

l. 10. & 33. D. *deadm. & peric. tutor & Cur.*

Those Officers must also remember, that the King holds truly the first place in the Administration of the State, but they the second, and so following according to their ranks; not that they should follow his courses, if he transgres the Laws of Equity and Justice; not that if he oppress the Common-wealth, they should connive to his Wickedness. For the Common wealth was as well committed to their care as to his, so that it is not sufficient for them to discharge their own duty in particular, but it behooves them also to contain the Prince within the limits of reason, briefly they have both joyntly and severally promised with solemn Oaths, to advance and procure the profit of a Common-wealth, although then that he forswore himself; yet may not they imagine that they are quit of their promise, no more than the Bishops and Patriarks, if they suffer an heretical Pope to ruine the Church; yea they should esteem themselves so much the more obliged to the observing their Oath, by how much they find him wilfully dispos'd to rush on in his perfidious courses. But if there be collusion betwixt him and them, they are prevaricators, if they dissemble,

they

they may justly be called forsakers and traytors, if they deliver not the Common wealth from Tyranny, they may be truly rankt in the number of Tyrants; as on the contrary they are Protectors, Tutors, and in a sort Kings, if they keep and maintain the State safe and intire, which is also recommended to their Care and Custody.

Although these things are sufficiently certain of themselves, yet may they be in some sort confirmed by Examples. The Kings of *Canaan* which pressed the People of *Israel* with a hard, both corporal and spiritual Servitude, (prohibiting them all meetings and use of Arms) were certainly Tyrants by Practice, although they had some Pretext of title. For, *Eglon* & *Jabin* had peaceably reigned almost the space of twenty years, God stirred up extraordinarily *Ehud*, which by a politick Stratagem killed *Eglon*, and *Deborah* which overthrew the Army of *Jabin*, and by his service delivered the People from the servitude of Tyrants, not that it was unlawful for the ordinary Magistrates, the Princes of the Tribes, and such other Officers to have performed it, for *Deborah* doth reprove the sluggish idleness of some, and stirly detests the disloyalty of others, for that they failed to perform their duty herein. But it pleased God, taking Commiseration of the distress of his People, in this manner to supply the defects of the ordinary Magistrates. Judg. 4. & 3.

Roboam the Son of *Solomon*, refused to disburthen the People of some unnecessary impositions and burthens; and being Petitioned by the People in the general Assembly of the States, *He grew insolent, and relying on the Counsel of his Minions, arrogantly threatned to lay heavier burthens on them hereafter*. No man can doubt, but that according to the tenour of the Contract, first passed between the King and the People, the prime and principal Officers of the Kingdom had authority to repress such insolence. They were only blameable in this, that they did that by faction and division, which should more properly have been done in the general Assembly of the States; in like manner, in that they transferred the Scepter from *Juda* (which was by God only confin'd to that Tribe) into another linage; and also, (as it chances in other affairs) for that they did ill and disorderly manage a just and lawful cause. Prophane Histories are full of such Examples in other Kingdoms. 1 King 12. 6, &c.

Titus Livi. lib. 1.

Brutus General of the Soldiers, and *Lucretius* Governour of the City of *Rome*, assembled the People against *Tarquinius Superbus*, and by their Authority thrust him from the Royal Throne: Nay, which is more, his Goods are Confiscated; whereby it appears that if *Tarquinius* had been Apprehended, undoubtedly he should have been according to the publique Laws, corporally punished.

The true causes why *Tarquinius* was deposed, were because he altered the Custom, whereby the King was Obliged to Advise with the Senate on all weighty Affairs, that he made War & Peace according to his own fancy; that he created Confederacies without demanding Counsel or Consent from the People or Senate; that he violated the Laws whereof he was made Guardian; briefly, that he made no reckoning to observe the Contracts agreed between the former Kings, and the Nobility and People of *Rome*. For the *Roman* Emperors, I am sure you remember the Sentence pronounced by the Senate against *Nero*, wherein he was judged an Enemy to the Common-wealth, and his Body condemned to be ignominiously cast on the Dung-hill: And that other pronounced against *Vitellius*, which adjudge him to be dishonestly dismembred, and in that miserable estate drayed through the City, and at last put to death: Another against *Maximinus*, who was despoild of the Empire; and *Maximus* and *Albinus* Established in his place by the Senate. There might also be added many others drawn from unquestionable Historians.

The Emperour *Trajan* held not himself exempt from Laws, neither desired he to be spared if he became a Tyrant; for in delivering the Sword unto the great Provost of the Empire, he says unto him; *If I command as I should, use this Sword for me: but if I do otherways, unsheath it against me.* In like manner the *French*, by the Authority of the States, and solicited thereunto by the Officers of the Kingdom, deposed *Childerick* the first, *Sigisbert*, *Hildebrick*, and *Childerick* the third, for their Tyranies, and chose others of another Family to sit on the Royal Throne. Yea, they deposed some because of their Idleness and want of Judgment, who exposed the State in prey to Panders, Courtesans, Flatterers, and such other unworthy Mushromes of the Court, who governed all things at their pleasure; taking from such rash Governours the Bridle of Government, lest the whole body of the State and

People

people should be consumed through their unadvised Folly.

Amongst others, *Theoderet* was Degraded because of *Ebroinus Dagobert* for *Pleitrude* and *Theband* his Pander, with some others: the Estates esteeming the command of an effeminate Prince, as insupportable as that of a Woman, and as unwillingly supporting the yoke of Tyranous Ministers managing affairs in the name of a loose and unworthy Prince, as the burden of a Tyrant alone. To be brief, no more suffering themselves to be Governed by one possessed by a Devil, than they would by the Devil himself. It is not very long since the Estates compel'd *Lewis* the Eleventh (a Prince as subtile and as wilful as any) to receive Thirty six Overseers, by whose advice he was bound to Govern the affairs of State. The descendents from *Charlemaine* substituted in the place of the *Merovingians* for the Government of the Kingdom, or those of *Capet*, supplanting the *Charlemains* by order of the Estates, and Reigning at this day, have no other nor better right to the Crown, than what we have formerly described; and it hath ever been according to Law permitted the whole body of the People, represented by the Counsel of the Kingdom, which are commonly called the Assembly of the States, to depose and establish Princes, according to the necessities of the Common wealth. According to the same rule we read that *Adolph* was removed from the Empire of *Germany Anno* 1296. because for covetousness without any just occasion he invaded the Kingdom of *France*, in favour of the *English*, and *Wenceslaus* was also deposed in the year of our Lord 1400. Yet were not these Princes exceeding bad ones, but of the number of those which are accounted less ill. *Elizabeth* the Wife of *Edward* the II. King of *England*, Assembled the Parliament against her Husband, who was there deposed, both because he Tyranniz'd in general over his Subjects, as also for that he Cut off the Heads of many Noble Men, without any just or legal proceeding. It is not long since *Christierne* lost the Crown of *Denmark*, *Henry* that of *Swedin*, Mary *Stewart* that of *Scotland*, for the same, or near resembling occasions: And the most worthy Histories relate divers Alterations and Changes which have happened in like manner, in the Kingdoms of *Polonia*, *Hungaries*, *Spain*, *Portugal*, *Bohemia*, and others.

Anno 1296.

1400.

Froissard lib. 1. *Cap.* 1.

Read the manner of the deposing of *Richard* the Second.

But what shall we say of the Pope himself? It is generally held that the Cardinals, because they do Elect him, or if they lay in their

Ant. de But. consil. quod pessimum est inter.

consil. Paul. de Castro, vol antiq. nu. 412. incip. visa puncto.

their duty, the *Patriarchs* which are next in rank to them, may upon certain occasions maugre the Pope, call a Council, yea, and in it judge him; as when by some notorious offence he scandalizeth the universal Church; if he be incorrigible, if reformation be as necessary in the head as the members, if contrary to his Oath he refuse to call a general Council: And we read for certain, that divers Popes have been deposed by general Councils. But if they obstinately abuse their Authority, there must (saith *Baldus*) first be used verbal Admonitions; secondly, herbal Medicaments or Remedies; thirdly, Stones or Compulsion; for where vertue and fair means have not Power to perswade, there force and terror must be put in ure to compel. Now if according to the opinions of most of the learned, by decrees of Councils, and by customs in like occasions, it plainly appears, that the Council may depose the Pope, who notwithstanding vaunts himself to be the King of Kings, and as much in Dignity above the Emperour, as the Sun is above the Moon, assuming to himself Power to depose Kings and Emperours when he pleaseth. Who will make any doubt or question, that the general Assembly of the Estates of any Kingdom, who are the representative body thereof, may not only degrade and disthronize a Tyrant; but also, even dis-authorize and depose a King, whose weakness or folly, is hurtful or pernicious to the State.

Mar. Lauden. in tract. de Card. in 2. q. 35. Philip. Decius in quodam consilio cujus verba fuerunt. Andr. Barb. in d. consil. 1. lib. 1. cap. 6. Bald. in calum. vol. penul. de rescri. in Decretal. Bonif. 8. de major & obed.

Simile.

But let us suppose, that in this our Ship of State, the Pilot is drunk, the most of his Associates are asleep, or after large and unreasonable tipling together, they regard their eminent danger in approaching a Rock, with idle and negligent jollity; the Ship in the mean season instead of following her right course, that might serve for the best advantage of the owners profit, is ready rather to split her self. What should then a Masters-mate, or some other under-officer do, who is vigilant and careful to perform his duty? Shall it be thought sufficient for him to pinch or poole them which are asleep, without daring in the mean time to put his helping hand to preserve the Vessel which runs on a course to destruction, least he should be thought to intermeddle with that which he hath no Authority nor warrant to do? What mad discretion, nay, rather notorious impiety were this? Seeing then that Tyranny, as *Plato* saith, is a drunken frensie or frantick drunkenness, if the Prince endeavour to ruine the Common-wealth, and

Plato lib. 8. & 9. de repub.

the

the principal Officers concur with him in his bad purposes, or at the least are luld in a dull and drowsie dream of security, and the people (being indeed the true and absolute Owner and Lord of the State) be through the pernicious negligence and fraudulent connivency of those Officers brought to the very brim of danger and destruction, and that there be notwithstanding amongst those unworthy Ministers of State, some one that doth studiously observe the deceitful and dangerous encroachments of tyranny, and from his soul detests it. What opposition do we suppose best befits such a one to make against it? Shall he consent himself to admonish his associates of their duty, who to their utmost ability endeavour the contrary? Besides, that such an advertisment is commonly accompanied with too much danger, and the condition of the times considered, the very soliciting of reformation will be held as a capital crime: so that in so doing he may be not unfitly resembled to one that being in the midst of a desert, environed with Thieves, should neglect all means of defence, and after he had cast away his Arms, in an eloquent and learned discourse command justice, and extol the worth and dignity of the Laws. This would be truly according to the Proverb, *To run mad with reason.* What then? Shall he be dull and deaf to the groans and cries of the people? Shall he stand still and be silent when he sees the Thieves enter? Shall he only hold his hands in his bosome, and with a demure countenance, idlely bewail the miserable condition of the times? If the Laws worthily condemn a Soldier, which for fear of the Enemies counterfeits sickness, because in so doing he expresseth both disloyalty and treachery. What punishment can we invent sufficient for him, who either maliciously or falsely betrays those whose protection and defence he hath absolutely undertaken and sworn? Nay rather than let such a one cheerfully call one and command the Mariners to the performance of their duty; let him carefully and constantly take order that the Common-wealth be not indamaged, and if need so require, even in despight of the King, preserve the Kingdom, without which the Kingly title were idle and frivolous, and if by no other means it can be effected, let him take the King and bind him hand and foot, that so he may be more conveniently cured of his frenzie and madness. For as we have already said, all the administration of the Kingdom, is not by the people absolutely resigned into the hands

Simile.

L. 3. & l. Omne delictum. ff. ult. D. de re milit.

C. Nullus in Carthagin. Concil. De Rer. Pontificii.

hands of the King; as neither the Bishoprick nor care of the universal Church, is so ally committed to the Pope, but also to the care and custody of all the principal Officers of the Kingdom. Now for the preserving of peace and concord amongst those which govern, and for the preventing of jealousies, factions, and distrusts amongst men of equal rank and dignity, the King was created prime and principal Superintendent in the government of the Common-wealth. The King swears that his most special care shall be for the welfare of the Kingdom; and the Officers of the Crown take all the same Oath. If then the King, or divers of them falsifying their faith, ruine the Common-wealth, or abandon her in her greatest necessity, must the rest also fashion themselves to their base courses, and quit all care of the States safety; as if the bad example of their companions, absolved them from their oath of fidelity? Nay, rather on the contrary, in seeing them neglect their promise, they shall best advantage the Common-wealth in carefully observing theirs: chiefly because for this reason they were instituted as in the steads of *Ephori*, or publick Controlers, and for that every thing gains the better estimation of just and right in that it is mainly and principally addressed to that end for which it was first ordained.

Furthermore, if divers have joyntly vowed one and the same thing, is the obligation of the one annihilated by the perjury of the other? If many become bound for one and the same summ, can the bankrempting of one of the Obligees quit the rest of their ingagement? If divers Tutors administer ill the goods of their Pupil, and that there be one amongst them that makes conscience of his actions, can the bad dealing of his companions acquit him? Nay rather on the contrary, he cannot free himself from the infamy of perjury, if to the utmost of his power he do not truly discharge his trust, and perform his promise: neither can the others defalliancy be excused, in the bad managing of the tutorship, if they likewise accuse not the rest that were joyned with them in the administration, for it is not only the principal Tutor that may call to an account those which are suspected to have unjustly or indiscreetly ordered the Affairs of their Pupil, but even those which were formerly removed, may also upon just occasion discharge and remove the delinquents therein. Therefore those which are obliged to serve a whole Empire and Kingdom, as the

L. 3. D. de adminis. & peric. tutor. & cur. lib. 3. D. de suspect. tut. & curat.

Constable,

Constable, Marshals, Peers and others, or those which have particular obligations to some Provinces or Cities, which make a part or portion of the Kingdom, as Dukes, Marquisses, Earls, Sheriffs, Mayors and the rest, are bound by the duty of their place, to succour the Common-wealth, and to free it from the burden of Tyrants, according to the rank and place which they hold of the People next after the King. The first ought to deliver the whole Kingdom from tyrannous Oppression; the other as Tutors, that part of the Kingdom whose Protection they have undertaken; the duty of the former is to suppress the Tyrant, that of the latter, to drive him from their confines. Wherefore *Mattathias* being a principal man in the State, when some basely connived, others perritiously consorted with *Antiochus* the tyrannous Oppressor of the *Jewish* Kingdom, he couragiously opposing the manifest Oppression both of Church and State, incourageth the People to the taking of Arms, with these words, *Let us restore the decayed Estate of our People, and let us fight for our People, and for the Sanctuary.* Whereby it plainly appears, that not for Religion only, but even for our Countrey, and our possessions, we may fight and take Arms against a Tyrant, as this *Antiochus* was. For the *Machabites* are not by any questioned, or reprehended for conquering the Kingdom, and expelling the Tyrant, but in that they attributed to themselves the Royal Dignity, which only belonged by God's special appointment, to the Tribe of *Judah*. 1 Machab. 3. 43.

Humane Histories are frequently stored with Examples of this kinds *Arbactus* Governour of the *Medes*, killed effeminate *Sardanapalus*, spinning amongst Women, and sportingly distributing all the treasures of the Kingdom amongst those his loose Companions. *Vindex* and *Galba* quit the party of *Nero*, yea though the Senate connived, and in a sort supported his Tyranny, and drew with them *Gallia* and *Spain*, being the Provinces whereof they were Governours. *Justin. lib.* 1. *Diodor. lib.* 2. *cap* 37.

But amongst all, the Decree of the Senate of *Sparta* is most notable, and ought to pass as an undeniable Maxim amongst all Nations. The *Spartans* being Lords of the City *Byzantium*, sent *Clearchus* thither for Governour and Commander for the Wars, who took Corn from the Citizens, and distributed it to his Soldiers. In the mean time the Families of the Citizens died for hun-

ger; *Anaxilaus* a principal man of the City, disdaining that tyrannous usage, entred into treaty with *Alcibiades* to deliver up the Town, who shortly after was received into it. *Anaxilaus* being accused at *Sparta* for the dilivery of *Byzantium*, pleaded his cause himself, and was there acquit by the Judges; for (said they) Wars are to be made with Enemies, and not with Nature. Nothing being more repugnant to Nature, than that those which are bound to defend a City, should be more cruel to the Inhabitants, than their Enemies that besiege them.

This was the opinion of the *Lacedæmonians*, certainly just Rulers, neither can he be accounted a just King, which approves not this sentence of Absolution; for those which desire to govern according to the due proportion of Equity and Reason, take into consideration, as well what the Law inflicts on Tyrants, as also, what are the proper rights and bounds, both of the Patritian and Plebeian orders. But we must yet proceed a little further: There is not so mean a Mariner, but must be ready to prevent the shipwrick of the Vessel, when either the negligence or wilfulness of the Pilot casts it into danger. Every Magistrate is bound to relieve, and as much as in him lies, to redress the miseries of the Common-wealth, if he shall see the Prince, or the principal Officers of State his associates, by their weakness or wickedness, to hazard the ruine thereof; briefly, he must either free the whole Kingdom, or at least that portion, especially recommended to his care, from their imminent and incroaching Tyranny. But hath this duty proper relation to every one? Shall it be permitted to *Hendonius Sabinus*, to *Ennus Saranus*, or to the Fencer *Spartanus*; or to be brief, to a meer private Person to present the bonnet to slaves, put Arms into the hands of subjects, or to joyn battle with the Prince, although he oppress the People with Tyranny? No certainly, the Common-wealth was not given in charge to particular Persons, considered one by one; but on the contrary, particulars even as Papists, are recommended to the care of the principal Officers and Magistrates; and therefore they are not bound to defend the Common-wealth, which cannot defend themselves. God nor the People have not put the sword into the hands of particular Persons; therefore, if without Commandment they draw the Sword, they are seditious, although the cause [illegible] never so just.

Li. 2. de Seditiosis.

Further-

Furthermore, the Prince is not eſtabliſht by private and particular Perſons, but by all in general conſidered in one intire body; whereupon it follows, that they are bound to attend the commandment of all, to wit, of thoſe which are the repreſentative body of a Kingdom, or of a Province, or of a City, or at the leaſt of ſome one of them, before they undertake any thing againſt the Prince. For as a Pupil cannot bring an action, but being avowed in the name of his Tutor, although the Pupil be indeed the true Proprietor of the Eſtate, and the Tutor only owner with reference to the charge committed unto him; ſo likewiſe the People may not enterpriſe actions of ſuch nature, but by the command of thoſe, into whoſe hands they have reſigned their power and Authority, whether they be ordinary Magiſtrates, or extraordinary, created in the Aſſembly of the Eſtates; whom, if I may ſo ſay, for that purpoſe, they have girded with their Sword, and inveſted with Authority, both to Govern and Defend them. Eſtabliſht in the ſame kind as the Pretor at *Rome*, who determined all differences between Maſters and their Servants, to the end that if any Controverſie happened between the King and the Subjects, they ſhould be Judges and preſervers of the Right, leſt the Subjects ſhould aſſume power to themſelves to be Judges in their own Cauſes. And therefore if they were oppreſt with Tributes, & unreaſonable Impoſts; if any thing were attempted contrary to Covenant and Oath, and no Magiſtrate oppoſed thoſe unjuſt proceedings; they muſt reſt quiet, and ſuppoſe that many times the beſt Phyſitions, both to prevent and cure ſome grievous Diſeaſe, do appoint both letting Blood, evacuation of Humors, and lancing of the Fleſh; and that the Affairs of this World are of that nature, that with much difficulty, one Evil cannot be remedied without the adventuring, if not the ſuffering of another; nor any Good be atchieved, without great pains. They have the example of the People of *Iſrael*, who during the Reign of *Solomon*, refuſed not to pay thoſe exceſſive Taxes impoſed on them, both for the building of the Temple, and fortifying of the Kingdom, becauſe by a general Conſent they were granted for the promulgation of the Glory of God, and for an Ornament and Defence of the publick State.

L. 3. l. 9 D. de aucto. & conſ. tut. & cur.

Seneca lib. 1 de Benefic.

They have alſo the example of our Lord and Saviour Jeſus Chriſt, who though he were King of Kings, notwithſtanding

because he conversed in this World in another quality, to wit, of a private and particular man, paid willingly tribute. If the Magistrates themselves manifestly favour the Tyranny, or at the least do not formally oppose it; let private men remember the saying of *Job*, *That for the Sins of the People God permits Hypocrites to Reign*, whom it is impossible either to Convert or Subvert, if men repent not of their ways, to walk in Obedience to Gods Commandments, so that there is no other Weapons to be used, but bended Knees and humble Hearts. Briefly, let them bear with bad Princes, and pray for better, perswading themselves, that an outragious Tyrany is to be supported as patiently, as some exceeding dammage done by the violence of Tempests, or some excessive over-flowing Waters, or some such natural accidents unto the Fruits of the Earth, if they like not better to change their Habitations, by retiring themselves into some other Countries. So *David* fled into the Mountains, and attempted nothing against the Tyrant *Saul*, because the People had not declared him any publick Magistrate of the Kingdom.

Job. 34.

Jesus Christ, whose Kingdom was not of this World, fled into *Egypt*, and so freed himself from the Paws of the Tyrant. Saint *Paul* teaching of the duty of particular Christian men, and not of Magistrates, teacheth that *Nero* must be obeyed. But if all the principal Officers of State, or divers of them, or but one, endeavour to suppress a manifest Tyranny, or if a Magistrate seek to free that Province, or Portion of the Kingdom from oppression, which is committed to his Care and Custody, provided under colour of freedom he bring not in a new Tyrany, then must all men with joynt courage and alacrity, run to Arms, and take part with him or them, and assist with Body and Goods, as if God himself from Heaven had proclaimed Wars, and meant to joyn Battle against Tyrants, and by all ways and means endeavour to deliver their Countrey and Common-wealth from their Tyrannous Oppression. For as God doth oftentimes chastise a People by the cruelty of Tyrants: so also doth he many times punish Tyrants by the Hands of the People: It being a most true saying, verified in all Ages: *For the Iniquities, Violences, and Wickednesses of Princes, Kingdoms are Translated from one Nation to another; but Tyranny was never of any durable continuance.*

Rom. 13.

Eccles. 10.

The

The *Centurians* and men at Arms did freely and couragiously execute the commandments of the High Priest *Jehoiada*, in suppressing the Tyranny of *Athalia*. In like manner all the faithful and generous *Israelites* took part and joyned with the *Machabites*, as well to re establish the true service of God, as also to free and deliver the State from the wicked and unjust oppression of *Antiochus*, and God blessed with happy success their just and commendable enterprize. What then, cannot God when he pleaseth stir up particular and private Persons, to ruine a mighty and powerful tyranny? He that gives power and ability to some even out of the dust, without any title or colourable pretext of lawful athority to rise to the height of Rule and Dominion, and in it Tyrannize and afflict the People for their Transgressions? Cannot he also even from the meanest multitude raise a Liberator? He which enthral'd and subjected the People of *Israel* to *Jabin*, and to *Eglon*, did he not deliver and enfranchise them by the hand of *Ehud*, *Barac* and *Debora*, whilst the Magistates and Officers were dead in a dull and negligent extasie of security? What then shall hinder? You may say the same God, who in these days sends us Tyrants to correct us, that he may not also extraordinarily send correctors of Tyrants to deliver us? What if *Ahab* cut off good men, if *Jezabel* subborn false witnesses against *Naboth*, may not a *Jehu* be rais'd to exterminate the whole line of *Ahab*, to revenge the death of *Naboth*, and *to cast the body of* Jezabel *to be torn and devoured of dogs*? Certainly as I have formerly answered, the Almighty is ever mindful of his Justice, and maintains it as inviolably as his mercy.

But for as much as in these latter times, those miraculous testimonies by which God was wont to confirm the extraordinary vocation of those famous Worthies, are now wanting for the most part: let the People be advis'd that in seeking to cross the fire the foot, they take not some *Impostor* for their Guide, that may lead them head long to destruction (as we may read happened to the *Jews*; and that in seeking freedom from Tyranny, he that was the principal Instrument to dis-inthrall them, became not himself a more insupportable Tyrant than the former: Brief, lest endeavouring to advantage the Common-wealth, they introduce not a common misery upon all the [illegible] participating therein with divers States of *Italy*, who seeking to suppress the present evil, added an accession of greater and more intolerable servitude.

Finally,

Finally, that we may come to some period of this third question; Princes are chosen by God, and establisht by the People; as all particulars considered one by one, are inferiour to the Prince; so the whole body of the People and Officers of State, which represent that Body, are the Princes Superiours. In the receiving and inauguration of a Prince, there are Covenants and Contracts passed between him and the People, which are tacite and expressed, natural or civil; to wit, to obey him faithfully whilst he commands justly, that he serving the Common-wealth, all men shall serve him, that whilst he Governs according to Law, all shall be submitted to his Government, &c. The Officers of the Kingdom are the Guardians and Protectors of these Covenants and Contracts. He that maliciously or willfully violates these conditions, is questionless a Tyrant by practice. And therefore the Officers of State may Judge him according to the Laws: And if he support his Tyrany by strong hands, their Duty binds them, when by no other means it can be effected, by Force of Arms to suppress him.

Of these Officers there be two kinds, those which have generally undertaken the protection of the Kingdom; as the Constable, Marshals, Peers, Palatines, and the rest, every one of which, although all the rest do either connive or consort with the Tyrany, are bound to oppose and repress the Tyrant; and those which have undertaken the Government of any Province, City, or part of the Kingdom, as Dukes, Marquesses, Earls, Consuls, Mayors, Sheriffs, &c. they may according to Right, expel and drive Tyrany and Tyrants from their Cities, Confines, and Governments.

But particular and private Persons may not unsheath the Sword against Tyrants by practise, because they were not establisht by particulars, but by the whole body of the People. But for Tyrants which without Title intrude themselves for so much as there is no contract or agreement between them and the People, it is indifferently permitted all to oppose and depose them; and in this rank of Tyrants may those be rang'd, who abusing the weakness and sloath of a lawful Prince, Tyranously insult over his Subjects. Thus much for this, to which for a more full resolution may be added that which hath been formerly discourst in the second question.

The

The Fourth Question.

Whether Neighbour Princes may, or are bound by Law to aid the Subjects of other Princes, persecuted for true Religion, or Oppressed by manifest Tyranny.

WE have yet one other question to treat of, in the discussing whereof, there is more use of an equitable judgment than of a nimble Apprehension; and if charity were but in any reasonable proportion prevalent amongst the men of this age, the disputation thereof was altogether frivolous; but seeing nothing in these days is more rare, nor less esteemed than Charity; we will speak somewhat of this our Question. We have already sufficiently proved, That all Tyrants, *Whether those that seek to enprivate the Minds and Souls of the People with an erroneous and superstitious Opinion in matter of Religion? Or, those that would enthrall their Bodies and Estates with miserable Servitude and excessive Impositions, may justly by the People, be both suppress and expulst?* But for so much as Tyrants are for the most part so cunning, and Subjects seldom so cautelous, that the disease is hardly known, or at the least, not carefully observed before the Remedy prove almost desperate, nor think of their own defence before they are brought to those straights, that they are unable to defend themselves, but compell'd to implore the assistance of others: Our demand therefore is, if Christian Princes lawfully may, and ought to succour those Subjects which are afflicted for true Religion, or oppress by unjust Servitude, and whose sufferings, are either for the Kingdom of Christ, or for the liberty of their own State? There are many, which hoping to advance their own ends, and encroach on others Rights, that will readily embrace the part of the afflicted, and proclaim the lawfulness of it; but the hope of gain, is the certain and only aim of their purposes: And in this manner the *Romans*, *Alexander* the great, and divers others, pretending to suppress Tyrants, have oftentimes enlarged their own limits. It is not long since we saw King *Henry* the Second make Wars on the Emperour *Charles* the Fifth, under colour of defending and delivering the Protestant Princes. As also *Henry* the

Eighth

Eighth King of *England* was in like manner ready to assist the *Germans*, if the Emperour *Charles* should molest them. But if there be some appearance of danger, and little expectance of profit, then it is that most Princes do vehemently dispute the lawfulness of the action. And as the former cover their ambition and avarice, with the vail of charity and piety; so on the contrary do the other call their fear and cowardly baseness integrity and justice; although that piety (which is ever careful of anothers good) have no part in the counsels of the first, nor justice (which affectionately desires the easing of a neighbours grief) in cooling the charitable Intendments of the later. Therefore without leaning either to the one side or the other, let us follow those rules which Piety and Justice trace out in matter of Religion.

First, All accord in this, *That there is one only Church, whereof Jesus Christ is the Head, the Members whereof are so United and Conjoyned together, that if the least of them be offended or wronged, they all participate both in the harm and sorrow, as throughout holy Scripture plainly appears.* Wherefore the Church is compared to a *Body*; now it oftentimes happens, that the Body is not only overthrown by a wound in the Arm or Thigh, but even also much endangered, yea, sometimes kill'd by a small hurt in the little Finger. Vainly therefore doth any man vaunt that this Body is recommended to his care and custody, if he suffer that to be dismembred & pull'd in pieces which he might have preserved whole and intire. The Church is compared to an edifice: on which side soever the building is undermin'd, it many times chances that the whole tumbles down, and on what Rafter or piece of Timber soever the flame takes hold, it endangers the whole house of burning; he must needs be therefore worthy of scorn, who should defer to quench the fire which had caught his House tops, because he dwells most in the Cellar; would not all hold him for a mad man which should neglect by countermining to frustrate a Mine, because it was intended to overthrow that wall there, and not this here.

Again, the Church is resembled to a Ship, which as it sailes together, so doth it sink together; insomuch that in a Tempest, those which be in the forecastle, or in the keel are no more secure than those which remain at the stern or on the deck: so that the Proverb commonly says, When men run the like hazard in matter of danger, *That they venture both in one Bottom.* This being

being granted questionless, whosoever hath not a fellow-feeling in commiserating the trouble, danger, and distress of the Church, is no member of that body, nor domestick in the family of Jesus Christ, nor hath any place in the *Ark of the Covenant of Grace*. He who hath any sence of Religion in his heart, ought no more to doubt whether he be oblig'd to aid the afflicted members of the Church, than he would be assisting to himself in the like distress; for the Union of the Church unites us all into one body, and therefore every one in his calling must be ready to assist the needy, and so much the more willingly, by how much the Almighty hath bestowed a greater Portion of his blessings on us, which were not conferr'd that we should be made possessors of them, but that we should be dispensers thereof according to the necessity of his Saints.

As this Church is one, so is she recommended, and given in charge to all Christian Princes in general, and to every one of them in particular; for so much as it was dangerous to leave the care to one alone, and the Unity of it would not by any means permit, that she should be divided into pieces, and every portion assign'd unto one particular; God hath committed it all intire to particulars, and all the parts of it to all in general, not only to preserve and defend it, but also to amplifie and increase it as much as might be. Insomuch that if a Prince which hath undertaken the care of a Portion of the Church, as that of *Germany* and *England*, and notwithstanding, neglect and forsake another part that is oppressed, and which he might succour, he doubtless abandons the Church, Christ having but one only Spouse, which the Prince is so bound to preserve & defend, that she be not violated or corrupted in any part, if it be possible. And in the same manner, as every private Person is bound, by his humble and ardent Prayers to God, to desire the restoring of the Church; so likewise, are the Magistrates tied diligently to procure the same, with the utmost of their power and means which God hath put into their hands. For the Church of *Ephesus* is no other than that of *Colossus*, but these two are portions of the universal Church, which is the Kingdom of Christ, the encrease and prosperity whereof ought to be the continual subject of all private mens Prayers and desires; but it is the duty of all Kings, Princes and Magistrates, not only to amplifie and extend the limits and bounds of the Church in all places, but only to preserve and defend it against all men whatsoever. Where-

fore there was but one Temple in *Judea* built by *Solomon*, which represented the unity of the Church; and therefore ridiculous and worthy of punishment was that Church-warden, which had care only of some small part of the Church, and suffered all the rest to be spoiled with Rain and Weather. In like manner, all Christian Kings when they receive the sword on the day of their Coronation, solemnly sweat to maintain the Catholick or Universal Church, and the Ceremony then used doth fully express it, for holding the Sword in their hands, they turn to the East, West, North and South, and brandish it, to the end that it may be known that no part of the World is excepted. As by this ceremony they assume the Protection of the Church, it must be questionless understood of the true Church, and not of the false; therefore ought they to employ the utmost of their Ability to reform, and wholly to restore that which they hold to be the pure and truely Christian Church, to wit, ordered and governed according to the direction of the Word of God. That this was the practise of godly Princes, we have their examples to instruct us. In the time of *Ezechias* King of *Judah* the kingdom of *Israel* had been a long time before in subjection to the *Assyrians*, to wit, ever since the King *Osea* his time; and therefore if the Church of *Judah* only, and not the whole universal Church had been committed to the Custody of *Ezechias*, and if in the preservation of the Church, the same course were to be held, as in the dividing of lands, and imposing of tributes, then questionable *Ezekias* would have confined himself within his own limits, especially then when the exorbitant Power of the *Assyrians* lorded it every where. Now we read that he sent expresse Messengers throughout *Israel*, to wit, to the subjects of the King of *Assyria*, to invite them to come to *Jerusalem* to celebrate the Paschal Feast; yea, and he aided the faithful *Israelites* of the tribes of *Ephraim* and *Manasses*, and others the subjects of the *Assyrians*, to ruine the high places which were in their quarters.

2 Chron. 30.

2 King. 22. 2 Chron. 34. & 35.

We read also, that the good King *Josias* expelled Idolatry, not only out of his own Kingdom, but also, even out of the Kingdom of *Israel*, which was then wholly in subjection to the King of *Assyria*, and no marvel, for where the glory of God, and the Kingdom of Christ are in question, there no bounds or limits can confine the zeal and fervent affection of pious and godly Princes. Though the opposition be great, and the power of the opposers greater, yet the

the more they fear God, the lesse they will fear men. These generous examples of divers godly Princes, have since been imitated by sundry Christian Kings, by whose means the Church (which was heretofore restrained within the narrow limits of *Palestine*) hath been since dilated throughout the universal World. *Constantine* & *Licinius* governed the Empire together, the one in the Orient, the other in the Occident, they were Associates of equal Power and Authority. *And amongst Equals, as the Proverb is, There is no Command.* Notwithstanding, because *Licinius* doth every where banish, torment, and put to Death the Christians, and amongst them divers of the Nobility, and that for and under pretence of Religion. *Constantine* makes War against him, and by force compels him to give free liberty of Religion to the Christians; and because he broke his faith, and relapsed into his former cruelties, he caused him to be apprehended and put to death in the City of *Thessalonica*. This Emperours Piety was with so great an applause celebrated by the Divines of those times, that they suppose that saying in the Prophet *Isaiah*, to be meant by him; *That Kings shall be Pastors and nursing Fathers of the Church.* After his death, the *Roman* Empire was divided equally between his Sons, without advantaging the one more than the other. *Constans* favoured the orthodox Christians *Constantius* being the elder, leaned to the *Arrians*, and for that cause banished the learned *Athanasius* from *Alexandria*, the greatest professed adversary of the *Arrians*. Certainly, if any consideration in matter of confines be absolutely requisite, it must needs be amongst brethren; and notwithstanding *Constans* threatens to war on his Brother if he restore not *Athanasius*, and had without doubt performed it, if the other had long deferred the accomplishment of his desire. And if he proceeded so far for the restitution of one Bishop, had it not been much more likely and reasonable for him, to have assisted a good part of the people, if they implored his aid against the tyranny of those that refused them the exercise of their Religion, under the Authority of their Magistrates and Governours? So at the perswasion of *Ambrose* the Bishop, *Theodosius* made War on *Eugenius* King of *Persia*, to deliver the Christians of his Kingdom from Persecution, although they were but particular and private Persons; which certainly those most just Princes who instituted so many worthy Laws, and had so great and special care of justice, would not have done, if by that

Par in pares non habet imperium.

Socr. lib. 7. cap. 18.

leſt they had ſuppoſed any thing were uſurpt on another mans right, or the Law of Nations violated. But to what end were ſo many Expeditions undertaken by Chriſtian Princes into the holy Land againſt the *Saracens*? Wherefore were demanded and raiſed ſo many of thoſe Saladine tenths? To what purpoſe were ſo many confederacies made, and croyſadoes proclaimed againſt the *Turks*, if it were not lawful for Chriſtian Princes, yea, thoſe furtheſt remote, to deliver the Church of God from the oppreſſion of tyrants, and to free captive Chriſtians from under the yoke of bondage? What were the motives that led them to thoſe Wars? What were the reaſons that urged them to undergo thoſe dangers? But only in regard of the Churches union, Chriſt ſummon'd every man from all parts with a unanimous conſent, to undertake the defence thereof? For all men are bound to repulſe common dangers with a joynt and common oppoſition, all which have a natural conſent and relation with this we now treat of. If this were lawful for them againſt *Mahomet*, and not only lawful, but that the backward and negligent were ever made liable to all infamous contempt, and the forward and ready undertakers always recompenced with all honourable reſpect and reward, according to the merit of their vertues; wherefore not now againſt the Enemy of Chriſt & his Saints? If it be a lawful War to fight againſt the *Greeks* (that I may uſe that Phraſe) when they aſſail our *Troy*: Wherefore is it unlawful to purſue and prevent that incendiary *Sinon*? Finally, if it have been eſteemed an heroical act to deliver Chriſtians from corporal ſervitude, (for the *Turks* enforce none in point of Religion) is it not a thing yet much more noble to infranchiſe and ſet at liberty ſouls impriſoned in the miſts of Error.

These examples of ſo many religious Princes, might well have the directive power of Law. But let us hear what God himſelf pronounces in many places of his Word by the mouth of his Prophets, againſt thoſe which advance not the building up of his Church, or which make noreckoning of her afflictions. The *Gadites*, the *Reubenites*, and half tribe of *Manaſſes* deſire of *Moſes*, that he would allot them their portion on the other ſide of *Jordan*. *Moſes* grants their requeſt, but with this proviſo and condition, that they ſhould not only aſſiſt their other Brethren the *Iſraelites* to conquer the land of *Canaan*, but alſo that they ſhould march the firſt, & ſerve as vauntguard to the reſt, becauſe they had their portions

Numb. 32. Joſh. 4. 12. Deut. 3. 20.

tions first set them forth, and if they fail to perform this Duty, he with an Anathema, destines them to destruction, and compares them to those which were adjudged Rebels at *Taberna*. And what, Lys be, your Brethren shall fight, and you in the mean season rest quiet at home? Nay, on the contrary, you also shall pass *Jordan*, and not return into their Houses, before first the Lord have driven his Enemies out from before his Face, and granted place to your Brethren as well as you, then shall you be innocent before the Lord and his People *Israel*. He shews by this, that those which God first blesseth with so great a benefit, if they help not their Brethren, if they make not themselves sharers in their labours, companions in their travels, and leaders in their dangers, they must questionless expect a heavy punishment to fall upon them.

Likewise when under the conduct of *Debora*, the *Nephtalites* & *Zabulonites* took Arms against the Tyrant *Jabin*; and that in the mean season the *Reubenites*, which should have been first in the Field, took their ease and played on their Pipes, whilst their flocks and herds fed at liberty; the *Gadites* held themselves secured with the rampire of the River; the *Danites* gloried in their command at Sea; and *Asher*, to be brief, was confident in the difficult access of their Mountains: The Spirit of the Lord speaking by the Prophetess, doth in express terms condemn them all; *Curse ye Meroz* (said the Angel of the Lord) *curse ye bitterly the Inhabitants thereof, because they came not to the help of the Lord, to the help of the Lord against the Mighty. But blessed above Women shall Jael the Wife of Haber the Kenite be*; who though she might have alledged the alliance which her Husband had with the *Canaanites*, did notwithstanding kill *Sisera* the General of the Enemies Army. And therefore *Uriah* speak Religiously, and like a true Patriark, when he said; *The Ark of the Lord, and Israel, and Judah abide in Tents, and my Lord Joab, and the Servants of my Lord are encamped in the open fields, shall I then go into mine House, to eat and to drink, and to lie with my wife? as thou livest, and as thy soul liveth, I will not do this thing.* But on the contrary, impious and wicked were the Princes of *Israel*, who supposing themselves secured by the craggy mountains of *Samaria*, and strong fortification of *Sion*, took liberty to loose themselves in luxurious feasts, loose delights, drinking delicious wines, and sleeping in perfum'd beds of Ivory, despising in the mean season poor *Joseph*, to wit, the Lords flock tormented and miserably vexed

Judges 5.

Judges 5. 23.

2 Sam. 11. 11.

Amos 6.

on

on all sides, not have any compassion on their affliction. *The Lord God hath sworn by himself, saith the Lord God of Hosts, I abhor the excellency of Jacob, and hate his Palaces, therefore will I deliver up the City, with all that is therein, and those that follow them in pleasures, shall be the first that shall go into Captivity.* Wickedly therefore did those *Epramites*, who in stead of congratulating and applauding the famous and notable Victories of *Gideon* and *Jephta*, did envie and traduce them, whom notwithstanding they had forsaken in dangers. Judg. 8. & 12.

As much may be said of the *Israelites*, who seeing *David* overcome the difficulty of his Affairs, and remain a peaceable King, say aloud, *We are thy flesh and thy bones*: And some years after seeing him imbroil'd again in troubles, cryed out, *We have no part in David, neither have we inheritance in the Son of Jesse.* Let us rank also with these all those *Christians* in name only, which will communicate at the holy Table, and yet refuse to take the Cup of Affliction with their Brethren, which look for Salvation in the Church, and care not for the safety and preservation of the Church, & the Members thereof. Briefly, which adore one and the same God the Father, acknowledge and avow themselves of the same houshold of Faith, and profess to be one and the same body in Jesus Christ, and notwithstanding, yield no succour nor assistance to their Saviour, afflicted in his Members. What Vengeance do you think will God inflict on such Impiety? *Moses* compares those which abandon their Brethren to the Rebels of *Core*, *Dathan*, & *Abiram*. Now none of those by the decree of the Almighty, entred into the Land of *Canaan*. Let not those then pretend any interest in the Heavenly *Canaan*, which will not succour Christ when he is Crucified, and suffering a thousand times a day in his Members; and as he were, begging their Alms from door to door. The Son of God with his own Mouth condems them to everlasting Fire, that when he was hungry, gave him no Meat; when he was thirsty, gave him no Drink; when he was a Stranger, lodged him not; naked, and Cloathed him not; sick, and in prison, and Visited him not. And therefore let those expect punishments without end, which lend a deaf Ear to the Complaints and Groans of our Saviour Jesus Christ, suffering all these things daily in his Members; although otherwise they may appear both to others and themselves, to be fully Christians, yet shall their condition be much more miserable than that of 2 Sam. 5. 2. 2 Sam. 20. 1. Numb. 32.

of many infidels. For why? were they the Jews only, and Scribes and Pharisees, to speak properly, that Crucified Christ? or were they Ethnicks, Turks, or some certain pernitious Sects of Christians, which Crucifie, Torment, and Persecute him in his Members? No certainly: the Jews hold him as Impostor, the Ethnicks a malefactor, the Turks an Infidel, the others an Heretick, insomuch as if we consider the intention of these men, as the censuring of all offences ought to have principal relation thereunto, we cannot conclude that it is properly Christ that they Persecute with such hatred, but some Criminal Person, which in their Opinion deserves this Usage: But they do truly and properly Persecute and Crucifie Christ Jesus, which profess to acknowledge him for the *Messias*, God and Redeemer of the World, and which notwithstanding fail to free him from Persecution and vexation in his Members, when it is in their power to do it. Briefly, he which omits to deliver his Neighbour from the hands of the *Murderer*, when he sees him in evident danger of his life, is questionless guilty of the Murder, as well as the Murderer. For seeing he neglected when he had means to preserve his life, it must needs necessarily follow, that he desired his death. And in all Crimes the will and intendment ought principally to be regarded. But questionless these Christian Princes, which do not relieve and assist the true Professors, which suffer for true Religion, are much more guilty of Murder than any other, because they might deliver from danger an infinite number of People, which for want of timely Succours, suffer death and torments under the cruel hands of their Persecuters: And to this may be added, *That to suffer unto Brother to be Murdered, is a greater offence than if he were a Stranger.* Nay, I say further, *Those forsakers of their Brethren in their time of danger and distress, are more evil, and more to be abhorred than the Tyrants themselves which persecute them.* For it is much more wicked and worthy of greater punishment, to kill an honest man that is innocent and fearing God (as those which consent with them in the faith, must of necessity know the true professors to be) than a Thief, an Impostor, a Magician, or an Heretick, as those which Persecute the true Christians do commonly believe them to be; it is a greater offence by many degrees to strive with God, than Man. Briefly, in one and the same action it is a much more grievous Crime, perfidiously to betray, than ignorantly to offend. But may

Aug. in Psa. 32. Amb. lib. 1. de Offic. Gratian in Decret.

there

the same also be said of them which refuse to assist those that are oppressed by Tyranny, or defend the Liberty of the Commonwealth against the oppression of Tyrants? For in this case the conjunction or confederacy seems not to be of so strict a condition between the one and the other; here we speak of the Commonwealth divers ly Governed according to the customs of the Countreys, and particularly recommended to these here, or those there; and not of the Church of God, which is composed of all, and recommended to all in general, and to every one in particular. The *Jew* saith, our Saviour Christ is not only Neighbour to the *Jew*, but also to the *Samaritan*, and to every other man. But we ought to love our Neighbour as our selves; and therefore an *Israelite* is not only bound to deliver an *Israelite* from the hands of Thieves, if it be in his power, but every stranger also; yea, though unknown, if he will rightly discharge his duty: Neither let him dispute whether it be lawful to defend another, which believes he may justly defend himself. For it is much more just, if we truly consider the concomitants, to deliver from danger and outrage another than ones self; seeing that what is done for pure Charity, is more right and allowable, than that which is executed for colour, or desire of revenge, or by any other transport of passion: in revenging our own wrongs we never keep a mean; whereas in other ment, though much greater, the most intemperate will easily observe moderation. Furthermore, the Heathens themselves may teach us what Humane Society, and what the Law of nature requires of us in this business; wherefore *Cicero* says, *That Nature being the common Mother of Mankind, prescribes and ordains, that every man endeavour and procure the good of another whatsoever he be, only because he is a man; otherwise all bonds of Society, yea and mankind it self must needs go to ruine.* And therefore as Justice bulks on these two Bais, or Pillars; First, that none be wronged; Secondly, that good be done to all, if it be possible. So also is there two sorts of Justice: the first, in those which offer injury to their Neighbours; the second, in them which when they have means to deliver the oppressed, do notwithstanding suffer them to sink under the burthen of their wrongs: For whosoever doth wrong to another, either mov'd thereunto by anger, or any other passion, he may in a sort be truly said to lay violent hands on his companion; but he that hath Means, and defends not the Afflicted,

Cicero lib. 1. & 3. Offic.

flicted, or to his power wards not the blows that are ſtruck at him, is as much faulty, as if he forſook his Parents, or his Friends, or his Country in their diſtreſs. That which was done by the firſt, may well be attributed to Choler, which is a ſhort madneſs; the fault committed by the other, diſcovers a bad mind, and a wicked purpoſe, which are the perpetual Tormentors and Tyrants of the Conſcience. The fury of the firſt may be in ſome ſort excuſed, but the malice of the ſecond admits no colour of defence. Peradventure you will ſay, I fear in aiding the one, I ſhall do wrong to the other. And I anſwer, You ſeek a Cloak of Juſtice wherewith to cover your baſe remiſneſs: And if you lay your hand on your heart, you will preſently confeſs, that it is ſomewhat elſe, and not juſtice, that withholds you from performing your duty. For as the ſame *Cicero* ſays in another place, *Either thou wilt not make the wrong doer thine enemy, or not take pains, or not be at ſo much charge, or elſe negligence, ſloth, or the hindering of thine own occaſions, or the croſſing of other purpoſes, takes thee off from the defence of thoſe who otherwiſe thou art bound to relieve. Now in ſaying thou only attends thine own Affairs, fearing to wrong another, thou falleſt into another kind of injuſtice: for thou abandonneſt humane ſociety, in that thou wilt not afford any endeavour either of mind, body, or goods, for the neceſſary preſervation thereof.* Read the Directions of the Heathen Philoſophers and Politicians who have written more divinely herein, than many Chriſtians in theſe days. From hence alſo proceeds, that the *Roman* Law deſigns puniſhment to that Neighbour which will not deliver the Slave from the outragious fury of his Maſter.

Amongſt the *Egyptians*, if any Man had ſeen another aſſail'd and diſtreſs'd by Thieves and Robbers, and did not according to his power preſently aid him, he was adjudg'd worthy of death, if at the leaſt he diſcover'd or delivered not the Delinquents into the hand of the Magiſtrate. If he were negligent in performing this duty, for the firſt Mulct, he was to receive a certain number of Blows on his Body, and to faſt for three days together. If the Neighbour be ſo ſtrictly oblig'd in this mutual duty of ſuccour to his neighbour, yea, to an unknown perſon in caſe he be aſſaul'd by Thieves: ſhall it not be lawful for a good Prince to aſſiſt, not Slaves to an Imperious

Diodor. Siculus, l. 2. c. 2.

Master, or Children against a Furious Father; but a Kingdom against a Tyrant, the Common-wealth against the private spleen of one, the people (who are indeed the true owners of the State) against a ministring servant to the publick. And if he carelessly, or wilfully omit this duty, deserves he not himself to be esteem'd a Tyrant, and punished accordingly, as well as the other a Robber, which neglected to assist his neighbour in that danger? *Thucydides* upon this matter says, *That those are not only Tyrants which make other Men Slaves, but much more those who having means to suppress and prevent such oppression, take no care to perform it.* And amongst others, those which assumed the Title of Protectors of *Greece*, and defenders of the Country: and yet stir not to deliver their Country from oppression of strangers, and truly indeed. For a Tyrant is in some sort compell'd to hold a straight and tyrannous hand over those, who by violence and tyranny, he hath constrain'd to obey him, because as *Tiberius* said, *he holds the Wolf by the ears, whom he can neither hold without pain and force, nor let go without danger and death.* To the end then that he may blot out one sin with another sin, he fills up one wickedness to another, and is forced to do injuries to others, left he should prove by remisness injurious to himself. But the Prince which with a negligent and idle regard looks on the outragiousness of a Tyrant, and the massacring of Innocents, that he might have preserved, like the Barbarous Spectacles of the *Roman* Sword-plays is so much more guilty than the Tyrant himself, by how much the Cruel and Homicidious Directers and Appointers of these Bloody Sports, were more justly punishable by all good Laws than the poor and constrain'd Actors in those murthering Tragedies: And as he questionless deserves greater punishment, which out of insolent lasciviousness murthers one, than he which unwillingly for fear of a further harm kills a man. If any object that it is against reason and good order to meddle in the affairs of another: I answer with the Old Man in *Terence*, *I am a Man, and I believe that all duties of humanity are fit and convenient for me.* *If others seeking to cover their base negligence, and careless unwillingness, alledge that bounds and jurisdictions are distinguished one from another, and that it is not lawful to thrust one Sickle into another's Harvest.* Neither am I also of that opinion, that upon any

Thucid. lib. 1.

Pompon. de reg. jur. leg. 36.

any such colour or pretence, it is lawful for a Prince to encroach upon anothers Jurisdiction or right, or upon that occasion to usurp anothers Country, and so carry another Man's Corn into his Barn, as divers have taken such shadows to mask their bad intentions. I will not say, that after the manner of those Arbitrators which *Cicero* speaks of, thou adjudge the things in Controversie to thy self. But I require that you repress the Prince that Invades the Kingdom of Christ, that you contain the Tyrant within his own limits, that you stretch forth your hand of compassion to the people afflicted, that you raise up the Common-wealth lying groveling on the ground, and that you so carry your self in the ordering and managing of this, that all men may see your principal aim and end was the publick benefit of Human Society, and not any private profit or advantage of your own; For seeing that Justice respects only the publick, and that which is without, and injustice fixes a man wholly on himself; It doubtless becomes a Man truly honest so to dispose his actions, that every private interest give place, and yield to publick commodity. *Cicer. 2 offic.*

Briefly to Epitomize what hath been formerly said, if a Prince outragiously over-pass the bounds of Piety and Justice. A neighbour Prince may justly and religiously have his own Country, not to invade and usurp anothers, but to contain the other within the limits of Justice and Equity: And if he neglect or omit his duty herein, he shews himself a wicked and unworthy Magistrate. If a Prince tyrannize over the People, a neighbour Prince ought to yield Succours as freely and willingly to the People, as he would do to the Prince his Brother if the People mutined against him: yea, he should so much the more readily succour the people, by how much there is more just cause of pity to see many afflicted, than one alone. If *Porsenna* brought *Tarquinius Superbus* back to *Rome*, much more justly might *Constantine*, requested by the Senate, and *Roman* people, expel *Maremius* the Tyrant from *Rome*. Briefly, if man become a Wolf to Man, who hinders that Man (according to the Proverb) may not be instead of God to the needy? And therefore the Ancients have rankt *Hercules* amongst the Gods, because he punisht and tam'd *Procrustes*, *Busiris*, and other Tyrants, the Plagues of Mankind, and Monsters of the Earth.

Earth. So whilst the *Roman* Empire retain'd her freedom, she was truly accounted the safe-guard of all the World against the violence of Tyrants, because the Senate was the Port and Refuge of Kings, People, and Nations. In like manner *Constantine*, called by the *Romans* against *Maxentius*, had God Almighty for the Leader of his Army: And the whole Church doth with exceeding Commendations celebrate his Enterprize, although that *Maxentius* had the same Authority in the West, as *Constantine* had in the East. Also *Charlemaine* undertook War against the *Lombards*, being requested to assist the Nobility of *Italy*: although the Kingdom of the *Lombards* had been of a long continuance, and he had no just pretence of right over them. In like manner when *Charles* the Bald, King of *France*, had tyrannously put to death the Governour of the Country between the River of *Seyne* and *Loyre*, with the Duke *Lambert*, and another Noble Man call'd *Jamatius*, and that other great men of the Kingdom were retired unto *Lewis* King of *Germany*, Brother (but by another Mother) unto *Charles*, to request aid against him, and his Mother called *Judith*, one of the most Pernicious Women in the World, *Leare* gave them Audience in a full Assembly of the *German* Princes, by whose joyce advice it was decreed, that Wars should be made against *Charles* for the re-establishing in their Goods, Honours, and Estates, those whom he had unjustly dispossest.

Finally, As there hath ever been Tyrants dispreſt here and there, so also all Histories testifie that there hath been Neighbouring Princes to oppose tyranny, and maintain the People in their right. The Princes of these times by imitating so worthy Examples should suppress the Tyrants both of Bodies and Souls, and restrain the Oppressors both of the Common-wealth, and of the Church or Christ: otherwise they themselves may most deservedly be branded with that Infamous Title of Tyrant.

And to conclude this Discourse in a word, Piety commands that the Law and Church of God be maintain'd: Justice requires that Tyrants and Destroyers of the Common-wealth, be compell'd to reason: Charity challenges the right of relieving and restoring the oppressed. Those that make no account of these things, do as much as in them lies to drive Piety, Justice, and Charity out of this World, that they may never more be heard of.

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